

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA

**PROPOSED AMENDMENTS TO LOCAL RULES:
PUBLIC COMMENT PERIOD**

The Court is proposing amendments to its local rules to be effective December 1, 2023. A complete set of the proposed revisions accompanies this notice. The proposed substantive changes include:

B-2003-1: Case trustees are required to serve notice of a continued first meeting of creditors upon debtors who do not appear at a convened meeting.

B-2015-2: This new rule requires that Sub V debtors deposit \$2,000 with the Sub V trustee within seven days of the petition date.

B-3006-1: The withdrawal of proof of claim event is revised into a self-certification process, with opportunity for objection by an interested party by filing a Motion to Strike.

B-3022-1 and B-3022-1: Applications for final decrees are to be accompanied by a 14-day Objection Notice in all Chapter 11 cases.

B-4001-1: Debtors shall serve motions to extend or impose the automatic stay on all affected creditors; for motions filed more than ten days post-petition, the debtor shall serve the Court-prepared hearing notice, motion, and related pleadings in an expedited manner unless the Court otherwise instructs.

B-9010-2: Attorneys seeking to withdraw their representation have an additional requirement if their client is a respondent to a pending summary judgment motion – serve a Notice for Pro Se Cases (per B-7056-1(g)) upon their client.

B-9027-1: The rule now provides the process by which parties seeking removal from state court are to present the record to the Bankruptcy Court.

The Judges reserve the right to make additional changes to the rules, including those based upon comments received, prior to the December 1 effective date.

Comments to or questions about the proposed rules edits can be submitted to the Court via email to Local_Rules_Comments@insb.uscourts.gov. The deadline to submit comments is **5:00 p.m. Eastern on Friday, November 10, 2023.**

October 13, 2023

/s/ Eric Kleis
Clerk of Court

B-1007-2. NOTICING, BALLOTING, AND CLAIMS AGENTS

(a) Noticing, Balloting, and Claims in Chapter 11 Cases with More than 300 Creditors

(1) Requirement

If the number of scheduled creditors in a single, consolidated, or jointly administered Chapter 11 case exceeds 300, the Debtor or trustee shall, unless the Court orders otherwise, propose the retention under 28 U.S.C. §156(c) of an entity to handle noticing (the “Noticing Agent”), an entity to receive and process claims (the “Claims Agent”), and an entity to process plan ballots (the “Balloting Agent”). One entity may serve in all three capacities (the “Agent”).

(2) Motion

A motion to retain a Noticing, Claims, or Balloting Agent, a motion to be excused from compliance with this rule, or a motion for extension of time shall be filed within 28 days after the filing of a schedule or creditor list that results in more than 300 creditors in a single, consolidated, or jointly administered case.

(3) Contact with Clerk

The proposed Agent shall meet with the Clerk or the Clerk’s designee, prior to employment, to agree on terms establishing the interactions between the proposed Agent and the Clerk. Those terms shall be incorporated in the order authorizing the employment of the Agent (the “Employment Order”) or in a written agreement between the Clerk and the Agent (the “Agreement”) that shall be made part of the record.

(b) Noticing Agent

A Noticing Agent shall distribute notices as directed by the Court and provide to the Debtor proof of service that shall be filed as established by the Agreement or the Employment Order.

(c) Claims Agent

If a Claims Agent is to be employed, the Agreement or Employment Order shall:

- (1) establish procedures for handling of claims filed with the Clerk prior to and after the employment of the Claims Agent;

- (2) require the Claims Agent to mail a notice of bar date that reflects the scheduled amount of the creditor's claim, instructs claimants to send claims to the Claims Agent and not the Court, and which notice complies substantially with Official Forms 410, 410A, 410S1, and 410S2 – unless alterations are approved by the Court, after notice to a committee and the UST;
- (3) provide that, upon receipt of a claim, the Claims Agent shall promptly date-stamp it, assign a claim number, scan the original, file the claim electronically with the Court (with all claims received by the Claims Agent to be filed no less frequently than every 180 days starting from the date of the entry of the Employment Order), retain originals in a fire-proof safe or vault, and return a date-stamped copy to the claimant (if a self-addressed, postage paid envelope was provided);
- (4) provide that the Claims Agent shall process all claims filed using the Court's electronic proof of claim option ("ePOC/eWOC");
- (5) require the Claims Agent to maintain the Claims Register, and that the Claims Agent shall list the claim on the register three days of receipt, in alphabetical order, according to the name of the claimant (last name for individuals) and include the claimant's address, claim number assigned, date received, dollar amount claimed, and classification of claim;
- (6) allow the periodic audit of claims information by the Clerk, a representative of the creditors' committee, or some other entity;
- (7) provide the mechanism and timing for delivery of a final Claims Register to the Clerk;
- (8) require the Claims Agent to maintain, in addition to the Claims Register, a separate mailing list including the claimants' addresses, edited to reflect a notice of change of address;
- (9) establish responsibility and method for processing transfers of claims, including requiring the Claims Agent to review the Court's docket periodically, identify notices transferring claims, and issue the notices required by Fed.R.Bankr.P. 3001(e);
- (10) provide for the retention or destruction of documents received by the Claims Agent; and
- (11) provide for treatment and ~~disposition~~ disposition of Proofs of Claim if the case is converted to Chapter 7.

(d) Balloting Agent

The Balloting Agent shall receive, record, and tabulate ballots. The Agreement or Employment Order shall provide for filing of a declaration showing the results of balloting and provide for the retention or destruction of original ballots.

Comment

Subparagraph (c)(3) revised to direct Claims Agent to electronically file proofs of claim with the Court at least every 180 days, to eliminate the need for such filing to take place all at once at the end of a Claims Agent case; spelling correction made within subparagraph (c)(11).

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

(a) Form of Amendments

(1) Generally

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;
- (B) be verified and signed by the Debtor under penalty of perjury;
- (C) note the information that has changed in the document, either by highlighting or description;
- (D) include all information from the original document that remains accurate; and
- (E) be accompanied by an amended summary of schedules and an amended statistical summary of certain liabilities, if the amendment changes the total on a schedule.

(2) Amendments Adding Creditors

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

(b) Notice Requirements

(1) Amendments Adding or Changing Status of Creditors

- (A) If an amendment adds creditors, the Debtor shall also upload creditor information at the time of filing or, if filed non-electronically, shall provide a new CD, diskette, DVD, flash drive, or other acceptable medium under S.D. Ind. B-1007-1(c).
- (B) The Debtor shall give notice to added creditors and provide copies of notices and documents in the case, including the notice of the Meeting of Creditors with full SSN or ITIN, notice of possible assets, the most recent plan or amended plan, and confirmation hearing notice and shall file a Certificate of Service. If the Debtor asserts that no notice is required, the Debtor shall file a statement

in lieu of notice. A sample form is available on the Court's website.

- (C) If a Chapter 11 Debtor amends a schedule and changes the status of a claim to contingent, disputed, or unliquidated, or changes the scheduled amount of a claim, the Debtor shall give notice to the affected creditor of the change in status or amount and of the bar date for the creditor to file a claim which is the later of the current deadline for filing claims or 45 days after the notice. A sample form is available on the Court's website.

(2) Amendments to SSN or ITIN

If the entirety or the last four digits of a SSN or ITIN is incorrectly stated on the Statement of Social Security Number or voluntary petition, ~~and the notice of the Meeting of Creditors has not been issued~~, the Debtor shall file an amended Statement of Social Security Number or an amended voluntary petition with the correct SSN or ITIN. ~~alert the Clerk by telephone to determine the necessary steps to correct the error prior to issuance of the meeting notice~~. If the notice of the Meeting of Creditors was issued with an incorrect SSN or ITIN, the Debtor shall ~~contact the Clerk and complete steps (A) through (D) below~~, as applicable: distribute the original notice of the Meeting of Creditors and notice of the corrected SSN or ITIN to all creditors, the trustee, the UST, and file a Certificate of Service.

- (A) ~~if a SSN or ITIN on a Statement of Social Security Number is incorrect, submit an amended statement to the Clerk;~~
- (B) ~~if the last four digits of the SSN or ITIN listed on the first page of the voluntary petition are incorrect, file an amended petition;~~
- (C) ~~distribute notice of the corrected SSN or ITIN to all creditors, the trustee, and the UST; and~~
- (D) ~~file a Certificate of Service.~~

(3) Amendments Changing the Debtor's Name

If the Debtor's name used for an electronic signature or voluntary petition is incorrect ~~and the notice of the Meeting of Creditors has not been issued~~, the Debtor shall ~~alert the Clerk by telephone to determine the necessary steps to correct the error prior to issuance of the meeting notice~~ file an amended petition and/or Declaration as to Original Signature with the Debtor's correct name. If the notice of the Meeting of Creditors was issued with an incorrect Debtor name, the Debtor shall ~~contact the Clerk and complete steps (A) through (D) below~~, as applicable If the notice of

Meeting of Creditors was issued with an incorrect Debtor name, the Debtor shall distribute notice of the corrected name to all creditors, the trustee, the UST, and file a Certificate of Service.:

~~if the Debtor's name on the petition is incorrect, submit an amended petition;~~

~~(A) —~~

~~(B) — if the Debtor's name used for an electronic signature is incorrect, file a declaration under penalty of perjury affirming that the document filed with the incorrect electronic signature was signed in the original by the Debtor using the correct name, and that the document is true and correct to the best of the Debtor's knowledge, information, and belief. A sample declaration is available on the Court's website;~~

~~(C) — distribute notice of the corrected name to all creditors, the trustee, and the UST; and~~

~~(D) — file a Certificate of Service.~~

Comment

Subparagraphs (b) & (c) are revised to more clearly explain the process if a voluntary petition is filed with an incorrect Debtor name or SSN/ITIN or if the Debtor's name is misspelled for purposes of electronic signatures.

B-1015-1. CONSOLIDATION OR JOINT ADMINISTRATION OF CASES PENDING IN SAME COURT

(a) Joint Cases

A joint case commenced under 11 U.S.C. §302(a) shall be jointly administered, unless the Court orders otherwise. The separate estates of the Debtors in a joint case will only be consolidated upon motion, after notice.

(b) Joint Administration

Jointly administered cases shall be administered as follows, unless the Court orders otherwise:

(1) Designation of Lead Case

The case with the lowest number shall be designated as the “Lead Case.” The other jointly administered cases are known as “Member Cases.”

(2) Caption

All papers, except those filed in a Member Case under subparagraphs (b)(4) and (5) of this rule, shall have the caption with the name and case number of the Lead Case followed by the words “Jointly Administered,” except that if one of the Member Cases is for an individual Debtor, the caption shall include the Lead Case name and case number and the case name for an individual Debtor. The caption for a jointly administered case shall not include the word “Consolidated.”

(3) Docket

Except for the documents listed in subparagraphs (b)(4) and (5) of this rule, a pleading or document filed in a jointly administered case after the entry of the order for joint administration shall be docketed under the case number of the Lead Case. If joint administration is terminated, documents filed after the order terminating joint administration shall be filed and docketed in the separate cases.

(4) Claims and Related Pleadings

Claims shall be filed only in the name and case number of the Debtor against which the claim is asserted. A separate claims register shall be maintained for each case. A separate claim shall be filed in each jointly administered case in which a claim is asserted. A pleading related to a claim filed in a Member Case shall also be filed in that Member Case, and its caption shall have the name and case number of the Member Case.

(5) Documents to Be Filed in Member Cases Separately

The following documents shall be filed on the dockets of the Lead or Member Cases as to which the document applies, even if filed after the entry of the order for joint administration, and the caption of these documents shall have the name and case number of the Member Case:

(A) All Chapters

- (i) amended petitions;
- (ii) schedules, statements of financial affairs, and amendments thereto;
- (iii) proofs of claim and objections thereto;
- (iv) Motions to Dismiss;
- (v) Motions to Continue Hearing (if notice of hearing issued in Member Case);
- (vi) UST's Notice of Revocation of Appointment of Trustee;
- (vii) 341 Meeting Adjourned/Continued;
- (viii) trustee final reports and accounts and related notices;
- (ix) adversary proceedings filed under Fed.R.Bankr.P. 7001(4) or (6);
- (x) a notice of appeal and related documents concerning an order entered only in the member case;
- (xi) corporate ownership statements;
- (xii) Verifications of Creditor List; and
- (xiii) documents related to the foregoing.

(B) Chapter 11 & 12 Cases

- (i) plans, disclosure statements, ballot reports, and objections or other documents related thereto;
- (ii) debtor monthly operating reports;

- (iii) Motions to Extend Time to File Chapter 11/12 Plan, Obtain Confirmation, and/or Extend Exclusionity-Period/Deadlines Under 11 U.S.C. §§ 1121, 1129, or 1221;
- (iv) Applications for Final Decree;
- (v) in addition to documents required by this subparagraph (B) of this rule, in Sub V Cases:
 - (a) Notices of Completion of 1192 Payments;
 - (b) Notices of Substantial Consummation of Subchapter V Plan;
 - (c) Objections to Small Business/Subchapter V Designation/Request for Determination;
 - (d) Statements of Small Business/Subchapter V Designation; and
 - (e) Subchapter V Status Reports Pursuant to 1188(c); and
- (vi) documents related to the foregoing.

(6) Ballots

Ballots shall have the caption of the name and case number of the Member Case for which the plan being voted on was filed.

(c) Substantive Consolidation

Substantively consolidated cases shall be administered as follows, unless the Court orders otherwise:

(1) Designation of Lead Case

The case with the lowest number shall be designated as the “Lead Case.”

(2) Caption

All documents in substantively consolidated cases shall have the caption of the Lead Case, unless one of those cases is for an individual Debtor; then the caption shall include the Lead Case and the case name for an individual Debtor.

(3) Docket

A single case docket shall be maintained after the entry of the order for consolidation. If consolidation is later terminated, documents filed after the order terminating consolidation shall be filed in the separate cases.

(4) Claims

After consolidation all claims shall be filed in the Lead Case. Claims filed and docketed prior to consolidation shall be considered as filed in the substantively consolidated cases but shall remain on the claims register where originally filed.

Comment

Title of event found in subparagraph (b)(5)(B)(iii) revised to match title change within CM/ECF.

B-2003-1. NOTICE OF CONTINUED MEETING OF CREDITORS

(a) Notice when Meeting of Creditors Continued at the Debtor's Request

A Debtor's request to continue the Meeting of Creditors shall be directed to the trustee in a Chapter 7, 12, or 13 case, and to the UST in a Chapter 11 case. The request shall not be filed with the Court. If the request is granted, the trustee shall file notice of the continued meeting date. The Debtor shall distribute notice of the continued meeting to all creditors, parties in interest, the trustee, and the UST, and file a Certificate of Service.

(b) Notice when Meeting of Creditors Continued by Trustee

If a trustee, without request of the Debtor, continues a meeting before it has been convened, the trustee shall file notice of the continued meeting date, distribute notice of the continued meeting to all creditors, parties in interest, and the UST, and file a Certificate of Service.

(c) Notice when Meeting of Creditors Continued After Convened

When a meeting is continued after it has been convened, the trustee or UST shall provide oral notice of the continued date, time, and location of the meeting, and file notice of the continued meeting date, time, and location with the Court. ~~No further distribution of notice is required.~~ If the Debtor did not appear at the convened meeting, the trustee shall distribute notice of the continued meeting date to the Debtor by mail and file a Certificate of Service.

Comment

The addition of the final sentence in subparagraph (c) is intended to provide clarity and formalize the actual practice when a Debtor does not appear at the Meeting of Creditors or provide advance notice of their absence to the trustee.

B-2015-2 DEBTOR INITIAL DEPOSIT WITH SUB V TRUSTEE

No later than seven days after the filing of the Notice of Appointment of the Subchapter V Trustee, the Debtor shall tender to the Sub V Trustee the sum of \$2,000.00, which the Sub V Trustee shall hold in escrow. The dollar amount of the initial deposit is subject to adjustment by the Court upon request of any interested party. Payment of compensation and reimbursement of expenses to the Sub V Trustee from the escrowed funds may not occur absent Court approval under 11 U.S.C. §§ 330, 331, 503(b), and 1194, Fed.R.Bankr.P. 2016, and S.D.Ind. B-2016-1. Failure of the Debtor to tender the required amount may constitute cause for dismissal of the case. Debtor shall include the amount of the initial deposit in any proposed cash collateral budget.

Comment

This new rule provides for the Debtor's payment of an initial deposit of \$2,000 to the Sub V Trustee to be held in escrow pending Court order.

B-2016-1. APPLICATIONS FOR COMPENSATION FOR SERVICES RENDERED AND REIMBURSEMENT OF EXPENSES

(a) Generally

Applications for compensation and reimbursement of expenses shall comply with the fee guidelines of the UST under 28 U.S.C. §586(a)(3)(A)(i) and the Policy of the United States Trustee for Region 10 for Implementation of Fee Guidelines. Applications for compensation and reimbursement of expenses shall be filed separately for the trustee and each Professional.

(b) Chapter 11 and 12 Cases

(1) Cases Under Traditional Fee Award Process

If the Professional is not subject to a procedure allowing periodic payments under S.D.Ind. B-2014-1(b)(4), then the Professional shall file a final fee application under 11 U.S.C. § 330 no later than 14 days after entry of a dismissal order or the filing of an application for final decree or other pleading that will result in the closing of the case, except a motion under S.D.Ind. B-3022-2(c), **unless the Court orders otherwise**. If no application is filed by the deadline the Professional shall return to the Debtor any portion of the retainer the application of which has not been approved by the Court and the Professional is prohibited from seeking any further compensation related to the bankruptcy case.

(2) Cases with Periodic Payment Process

- (A) If the Professional has obtained Court approval of a periodic payment procedure under S.D.Ind. B-2014-1(b)(4), then the Professional shall file an application for interim fees and expenses under 11 U.S.C. § 331 no less frequently than 180 days after the order for relief and no later than every 180 days thereafter. The authorization for periodic payment procedures is suspended if the required applications are not filed.
- (B) The Professional shall file a final fee application under 11 U.S.C. § 330 no later than 14 days after entry of a dismissal order or the filing of an application for final decree or other pleading that will result in the closing of the case, except a motion under S.D.Ind. B-3022-2(c). If no application is filed by the deadline the Professional shall return to the Debtor any portion of the retainer the application of which has not been approved by the Court and the Professional is prohibited from seeking any further compensation related to the bankruptcy case.

(c) Chapter 13 Cases

(1) Traditional Fee Award Process

Compensation to an attorney representing a Chapter 13 Debtor (“Counsel”) shall be disclosed, reviewed, and approved under applicable authority including, without limitation, 11 U.S.C. §§329 and 330 and Fed.R.Bankr.P. 2002, 2016, and 2017, unless Counsel opts for the alternative award process in subparagraph (b)(2) of this rule.

(2) Streamlined or “Presumed Reasonable” Fee Award Process

Counsel may have fees deemed awarded upon confirmation, without filing a separate application, if:

- (A) Counsel has filed an executed copy of the “Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys,” available on the Court’s website;
- (B) Counsel has filed a proof of claim and served that claim upon the trustee;
- (C) Counsel seeks no more than the maximum fee set by general order (the “Presumed Reasonable Fee”); and
- (D) No other counsel in the case has been awarded and paid any amount using the award process in this subparagraph.

(3) Supplemental Fees

(A) Lead Bankruptcy Case

Counsel may apply for additional fees if Counsel opted for the fee award process set out in subparagraph (c)(2) of this rule, but later determines that the Presumed Reasonable Fee is not sufficient. The application shall request only the amount in excess of the Presumed Reasonable Fee and be accompanied by time records supporting the total fees sought by Counsel in the case or by an affidavit explaining why the Presumed Reasonable Fee is inadequate and describing the services rendered in the case. The Clerk shall provide notice of the total fees requested.

(B) Adversary Proceedings Seeking to Avoid an Unsecured Mortgage

Counsel who files an adversary proceeding seeking to avoid an unsecured mortgage pursuant to S.D.Ind. B-4003-3 is entitled to an

additional \$500 above the Presumed Reasonable Fee per adversary proceeding, provided that counsel

- (1) (i) discloses the additional fee in the original or an amended Disclosure of Compensation of Attorney for Debtor (Form 2030); and
- (2) (ii) includes the additional fee within counsel's original or amended proof of claim.

(4) Fees Upon Case Dismissal

If Counsel opted for the fee award process in subparagraph (b)(2) of this rule but the case is dismissed prior to confirmation of a plan and the filing fee was paid in full, the trustee shall pay to Counsel, subject to the trustee's percentage fee, an administrative claim equal to 50% of the unpaid balance of an allowed fee, unless the Court orders otherwise. Counsel may request within 14 days of the dismissal an award of additional fees under subparagraph (b)(3) of this rule. Counsel shall not collect, receive, or demand additional fees from the Debtor for work performed, even after dismissal, unless the Court orders otherwise.

(5) Source of Fee Payment

Except for pre-petition retainers, all fees shall be paid through the plan and Counsel may not receive fees directly from the Debtor, unless the Court orders otherwise.

(6) Review of Fees

On its own motion or the motion of a party in interest prior to entry of a final decree, the Court may order a hearing to review a fee paid or to be paid.

(7) Debtor's Non-Bankruptcy Professionals and Distribution of Settlements

As to any Professional whose employment was disclosed under S.D.Ind. B-2014-2, the proposed compensation to the Professional shall be disclosed in any Motion to Approve Settlement Distribution filed under S.D.Ind. B-9019-1(b), unless the information is provided in a Motion to Modify Plan.

Comment

Language added to end of first sentence in subparagraph (b)(1) to permit the Court to extend time for counsel to file final fee applications beyond 14-day limit following dismissal of case or proceeding or filing of motion for final decree.

B-3006-1. WITHDRAWAL OF PROOF OF CLAIM

(a) Notice of Withdrawal

~~A notice of withdrawal of a proof of claim may only be filed if, and shall state that:~~

- ~~(1) no objection to the claim has been filed;~~
- ~~(2) the claimant is not a defendant in an adversary proceeding in the case; and~~
- ~~(3) in a Chapter 11, 12 or 13 case, the claimant has not accepted or rejected the plan or otherwise participated meaningfully in the case.~~

Use of the Notice of Withdrawal of Claim ECF event serves as the filer's certification that the claim may be withdrawn as of right under Fed.R.Bankr.P. 3006 and without a Court order. A party in interest may challenge the filing of the Notice of Withdrawal of Claim by filing a Motion to Strike. A Notice of Withdrawal of Claim factually unsupported by the record is effective upon filing unless the Court orders otherwise.

(b) Motion to Withdraw

A claimant who files a motion to withdraw a proof of claim shall provide the Debtor, a trustee, a creditors' committee, the UST, and an entity that objected to the claim a 21-day Objection Notice. Along with the motion, the claimant shall file the notice and a Certificate of Service. The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

Comment

Subparagraph (a) revised to provide for party seeking withdrawal of claim through notice event to self-certify right to withdrawal. The revision also allows for a Motion to Strike to be filed for a party to challenge the notice.

B-3015-2. FILING AND DISTRIBUTION OF MODIFICATIONS TO CHAPTER 13 PLANS

(a) Pre-Confirmation Modifications

(1) Agreed Modifications with Creditor: Filing and Notice

If the Debtor, a creditor, and the trustee agree upon a plan modification before confirmation, and that modification only affects the treatment of the creditor agreeing to the change, the parties shall file an agreed modification. Notice to creditors of the modification is not required. The Court will not approve the agreement by separate order, as the agreement is deemed approved by the subsequent confirmation order.

(2) Agreed Modifications with Trustee: Filing and Notice

If the Debtor and the trustee agree upon a plan modification before confirmation that does not adversely affect the treatment of a creditor, the parties shall file an agreed modification. Notice to creditors of the modification is not required. The Court will not approve the modification by separate order, as the modification is deemed approved by the subsequent confirmation order.

(3) Other Pre-Confirmation Modifications

A pre-confirmation modification that affects the treatment of creditors that have not agreed to the modification requires the filing of an amended plan which the Trustee or the Debtor shall distribute under S.D. Ind. B-3015-1.

(b) Post-Confirmation Modifications

(1) Motion to Modify Plan

Except as provided by paragraph 4(c) of the Local Plan form, A a proposed modification of a confirmed plan shall be filed as a Motion to Modify Plan, which shall set forth, in the body of the motion and not as an attachment, both the current and proposed new plan payment amounts if the plan payment is changing or a statement indicating that the payment is not changing. The movant shall distribute notice of the filing and the deadline for objections and file a Certificate of Service.

(2) Supplemental Schedules I and J

A Motion to Modify Plan filed by the Debtor or an objection to the trustee's Motion to Modify Plan that is based in whole or in part on a

change in the Debtor's income and/or expenses shall be accompanied by a supplemental Schedule I and Schedule J.

Comment

New language added to beginning of subparagraph (b)(1) to account for the agreement procedure described within paragraph 4(c) of the Local Plan form.

B-3022-1. FINAL DECREE IN CHAPTER 11 CASES WHERE THE DEBTOR IS NOT AN INDIVIDUAL

In a Non-Sub V Case or a Sub V Case confirmed under 11 U.S.C. § 1191(a) in which the Debtor is not an individual, the Plan Proponent or other entity administering the confirmed plan shall apply for a final decree, after the estate has been fully administered. In a Sub V Case confirmed under 11 U.S.C. § 1191(b) in which the Debtor is not an individual, the Debtor or trustee, consistent with the terms of the confirmed plan or confirmation order, shall apply for a final decree after the trustee has filed either the final report the Chapter 11 Subchapter V Trustee's Final Report and Account or the Report of No Distribution. The application shall include the percentage paid or proposed to be paid to general unsecured creditors. The applicant seeking entry of a final decree shall serve a 14-day Objection Notice of the application on the Service List and file a Certificate of Service.

Comment

The amendment allows for either the Debtor or the trustee, in a case confirmed under 11 U.S.C. § 1191(b), to apply for entry of a final decree after the trustee has filed their Final Report and Account (in which case the trustee is likely to apply for the final decree) or the Report of No Distribution (which should result in the filing of the application for final decree by the Debtor). The rule now also requires applicants to provide parties on the Service List with a 14-day Objection Notice of the application for final decree.

B-3022-2. FINAL DECREE IN CHAPTER 11 CASES WHERE THE DEBTOR IS AN INDIVIDUAL

(a) Timing of Application for Final Decree

In a case confirmed under 11 U.S.C. § 1191(a), the individual Debtor may apply for a final decree any time after docketing of the confirmation order. In a case confirmed under 11 U.S.C. § 1129 or § 1191(b), the individual Debtor or trustee, consistent with the terms of the confirmed plan or confirmation order, shall apply for a final decree upon completion of all plan payments or after the trustee has filed either the Chapter 11 Subchapter V Trustee's Final Report and Account or the Report of No Distribution. The application shall include the percentage paid to general unsecured creditors. The applicant seeking entry of a final decree shall serve a 14-day Objection Notice of the application on the Service List and file a Certificate of Service.

(b) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. § 1141(d)(5)(B), the Debtor shall file a Motion for Hardship Discharge.

(c) Closing Case Before Plan Payments Completed

In a case confirmed under 11 U.S.C. § 1129 for which the Debtor is the entity administering the confirmed plan, a Debtor that wishes to close the case pending completion of the plan must file a Motion to Close Chapter 11 Case that states an intention to reopen the case upon plan completion. If the motion is granted, the Clerk shall not issue a Notice of No Discharge as otherwise required by Fed.R.Bankr.P. 4006. After completion of the plan and the reopening of the case, the Debtor shall file the Application for Final Decree and supporting documents as required in subparagraph (a) of this rule.

Comment

Subparagraph (a) is amended to provide that either the Debtor or the trustee, in a case confirmed under 11 U.S.C. § 1191(b), can apply for entry of a final decree after the trustee has filed their Final Report and Account (in which case the trustee is likely to apply for the final decree) or the Report of No Distribution (which should result in the filing of the application for final decree by the Debtor). The rule now also requires applicants to provide parties on the Service List with a 14-day Objection Notice of the application for final decree.

B-4001-1. MOTIONS FOR RELIEF FROM AND TO EXTEND OR IMPOSE THE STAY AND FOR ADEQUATE PROTECTION

(a) Relief from Stay or Co-Debtor Stay

(1) Contents of Motion

A motion for relief from the automatic stay under 11 U.S.C. § 362(a), for adequate protection under 11 U.S.C. § 361, or relief from the stay as to a co-debtor under 11 U.S.C. § 1301(a) shall include the following if applicable:

- (A) a description of the property as to which stay relief is sought;
- (B) the amount of principal and interest due as of the date of the motion;
- (C) documents upon which the movant relies to establish its lien or security interest, or incorporate by reference the movant's proof of claim;
- (D) evidence of perfection of the movant's lien or security interest (or incorporate by reference the movant's proof of claim if documentation attached);
- (E) a post-petition payment history if the case is pending under Chapter 13 and a post-petition default is alleged;
- (F) the name of the co-debtor if the motion seeks relief from the co-debtor stay; and
- (G) the statement in the motion's caption "with waiver of deadlines" if the filer waives the preliminary and final hearing requirements under 11 U.S.C. § 362(e).

(2) Notice: Co-Debtor Stay or Waiver of Deadlines

A movant that consents to the waiver of the 11 U.S.C. § 362(e) hearing requirements or that seeks only relief from the co-debtor stay shall:

- (A) serve a 14-day Objection Notice on the Service List, a trustee, any creditor asserting a lien on the same property, parties in interest, and any co-debtor in a Chapter 12 or 13 case. If the motion also seeks abandonment, additionally distribute the notice to all creditors, unless notice has been limited under S.D. Ind. B-6007-1; and

(B) file a Certificate of Service

The motion, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

(3) Notice: No Waiver of Deadlines

If the movant has not waived the 11 U.S.C. § 362(e) hearing requirements:

(A) the Court shall, after filing, prepare a notice that sets the objection deadline and the hearing date. The Court may distribute the notice or direct the movant to distribute it;

(A) if directed by the Court, the movant shall serve the notice identified in subparagraph (a)(3)(A) of this rule on the Service List, a trustee, any creditor asserting a lien on the same property, parties in interest, and any co-debtor in a Chapter 12 or 13 case. If the motion also seeks abandonment, the movant shall additionally distribute the notice to all creditors, unless notice may be limited under S.D. Ind. B-6007-1(b); and

(C) the movant shall file a Certificate of Service no later than the objection deadline.

(4) Resolution of Motion

Unless the notice provides otherwise, the Court may grant relief from the stay, and abandonment if requested, without further notice and may cancel any hearing if no response to the motion is timely filed. At any hearing on the motion the Debtor or objecting party has the burden of establishing payments alleged to have been made but not set forth in the payment history.

(b) Extend or Impose the Stay

(1) Motion Filed Ten Days or Less after Petition Date

(A) The motion, and any supporting affidavit, must be served on all creditors to whom it is proposed that the stay be extended or imposed, and shall include a Certificate of Service.

~~(A)~~(B) The Court shall set the motion for hearing, and issue notice of that hearing and the deadline for objections.

~~(B)~~(C) If the Debtor has filed an affidavit with sufficient facts to support the motion and no objection has been filed, the Court may, in its discretion, rule on the motion without hearing, conduct a telephonic hearing, or make such other arrangements as will be most efficient for the Court and the Debtor, including but not limited to excusing the Debtor from appearing in person.

(2) Motion Filed More than Ten Days after Petition Date

(A) Notwithstanding Fed.R.Bankr.P. 9006(a)(1)(c), and as permitted by Fed.R.Bankr.P. 9006(c), a motion to extend or impose the stay shall be subject to this subparagraph even if the tenth day after the petition date falls on a Saturday, Sunday, or legal holiday.

(B) ~~The movant shall contact the courtroom deputy for the Judge assigned to the case and obtain a hearing date~~The Court shall prepare a hearing notice. Unless the Court orders otherwise, the movant shall serve the motion, any supporting affidavit, and the notice by fax, e-mail, hand or overnight delivery on all creditors to whom it is proposed that the stay be extended or imposed and file a Certificate of Service on or before the hearing date.

~~(C) The movant shall send notice of the motion and the hearing to those creditors as to whom it is proposed that the stay be extended or imposed.~~

~~(D) The movant shall file a Certificate of Service on or before the hearing date.~~

~~(E)~~(C) The Debtor's attendance at the hearing may be required, even if no objection is filed.

(3) Contents of Motion

(A) Motion to Extend or Impose the Stay

A motion to extend or impose the stay shall include, if applicable, the name of a creditor that had filed a Motion for Relief from Stay that was pending at the time of, or was granted within the 60 days prior to, dismissal of the prior case.

(B) Motion to Impose the Stay

A motion to impose the automatic stay shall include the following if applicable:

- (i) if the motion is intended to stop a sheriff's sale or other involuntary sale of property of the estate, the caption and the case number of the non-bankruptcy action pending in a state court or other tribunal; and
- (ii) the name of and contact information, if available, for the creditors involved in the non-bankruptcy action and their counsel, if any.

Comment

Subparagraph (b)(1)(A) is new and provides that motions to extend or impose the stay filed within ten days of the petition are to be served on affected creditors and accompanied by a Certificate of Service. Subparagraph (b)(2)(B) is amended to provide that the Court, rather than the movant, shall prepare the hearing notice of motions filed more than ten days post-petition; it also provides that the movant serve the notice, motion and supporting documentation expeditiously, so that all creditors receive proper notice prior to the Court's hearing on the matter.

B-7056-1. SUMMARY JUDGMENT PROCEDURE

(a) Movant's Obligations

A party seeking summary judgment shall file and serve a supporting brief and any affidavits and other materials referred to in Fed.R.Civ.P. 56(c)(1) that the movant relies on to support the motion. The supporting brief shall be no more than 35 pages, unless the Court orders otherwise. The brief shall include a section labeled "Statement of Material Facts Not in Dispute" that lists the facts:

- (1) that are potentially determinative of the motion; and
- (2) as to which the movant contends no genuine issue exists.

(b) Non-Movant's Obligations

A party opposing a summary judgment motion shall, within 28 days after the movant serves the motion, file and serve a response brief and any affidavits and other materials referred to in Fed.R.Civ.P. 56(c)(1) that the party relies on to oppose the motion. The response brief shall be no more than 35 pages, unless the Court orders otherwise. The response shall include a section labeled "Statement of Material Facts in Dispute" that identifies the potentially determinative facts that the party contends demonstrate a dispute of fact precluding summary judgment.

(c) Reply

The movant may file and serve a reply brief within 14 days after a response is served. The reply brief shall be no more than 20 pages, unless the Court orders otherwise.

(d) Surreply

A party opposing a summary judgment motion may file a surreply brief only if the movant cites new evidence in the reply or objects to the admissibility of the evidence cited in the response. The surreply shall be filed and served within seven days after the movant serves the reply and shall be limited to the new evidence and objections.

(e) Citations to Supporting Facts

A party shall support each fact asserted in a brief with a citation to a discovery response, a deposition, an affidavit, or other admissible evidence. The evidence shall be in the record or in an appendix to the brief. The citation shall refer to a page or paragraph number or otherwise specify where the relevant information can be found in the supporting evidence.

(f) Oral Argument or Hearing

The Court may decide a summary judgment motion without oral argument or hearing unless a party has requested a hearing.

(g) Notice Requirement for *Pro Se* Cases

~~A party seeking summary judgment against an unrepresented party shall serve that party~~ The movant shall serve a party that is unrepresented at the time of the filing of a motion for summary judgment with a notice that:

(1) briefly and plainly states that a fact stated in the movant's Statement of Material Facts and supported by admissible evidence will be accepted by the Court as true unless the opposing party cites specific admissible evidence contradicting that statement of material fact; and

(2) sets forth the full text of Fed.R.Civ.P. 56 and this rule.

(h) Compliance

The Court may, in the interest of justice or for good cause, excuse failure to comply with this rule.

Comment

Subparagraph (g) is amended in conjunction with the addition of new subparagraph (d) to B-9010-2 that requires withdrawing counsel to serve the Notice for *Pro Se* Cases on their clients if withdraw is sought prior to the filing of a response to a motion for summary judgment.

B-9010-2. SUBSTITUTION AND WITHDRAWAL OF APPEARANCE

(a) Substitution

If a party in an adversary proceeding or a Debtor in a case wishes to substitute attorneys, a substitution of appearance signed by the original attorney and the new attorney shall be filed. If a trustee, a Debtor, or official committee wishes to substitute attorneys or another professional whose employment was subject to approval by the Court, an application to employ the new professional shall also be filed. If the attorney being replaced is unavailable to sign the substitution of appearance, the new attorney or the Debtor shall include an affidavit stating the reasons for the unavailability.

(b) Motion to Withdraw: ~~Exceptions~~

(1) Exceptions

An attorney for a party other than the Debtor shall file a motion to withdraw an appearance except that a notice of withdrawal may be filed:

~~(1)~~ (A) when another attorney remains attorney of record for the party; or

~~(2)~~ (B)—_____ when the party has no controversy pending before the Court.

~~(c)~~ (2) Motion to Withdraw: Requirements

(A) A motion to withdraw shall provide:

i. ~~(1)~~ (1)—satisfactory evidence of a written request from the party to withdraw; or

ii. ~~(2)~~ (2)—an attached copy of a notice to the party of the intent to withdraw sent at least seven days before the filing of the motion to withdraw, which includes a statement either that no hearing, conference, or deadline involving the party is set in the next 30 days or that identifies the hearing, conference, or deadline; ~~and~~

(B) An attorney seeking to withdraw their appearance on behalf of a client who is the nonmovant to a pending summary judgment motion for which a responsive pleading has yet to be filed shall serve upon the client a Notice for Pro Se Cases described in S.D.Ind. B-7056-1(g) along with a motion to withdraw.

~~(d)~~(c) Service

A substitution of appearance, a motion to withdraw, or a notice of withdrawal shall be served:

- (1) in an adversary proceeding, on all parties to the proceeding; and
- (2) in a bankruptcy case, on all counsel of record and the Debtor, if not represented by counsel.

~~(e)~~(d) Effect of Failure to Comply

The original attorney remains the party's attorney of record until compliance with subparagraph (a), (b), or (c) of this rule, as applicable, subparagraph (d) of this rule, and entry of an order, if necessary, permitting withdrawal.

~~(f)~~(e) Attorney Status in Court Record After Withdrawal or Substitution

The Court shall remove the attorney from the list of attorneys receiving notices and orders in the case or adversary proceeding upon the Court's entry of an order granting a motion to withdraw, or the filing of a notice of withdrawal or substitution of appearance. The Court's docket shall continue to list the attorney, with a notation that the attorney's appearance has been terminated.

Comment

New subparagraph (b)(3) is added and requires withdrawing counsel to serve the Notice for *Pro Se* Cases on their clients if withdrawal is sought prior to the filing of a response to a motion for summary judgment.

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

(1) 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.

~~(2)~~ (2) — If the bankruptcy case is filed or pending in another jurisdiction, the party requesting the removal shall contact the Clerk of the Bankruptcy Court to open a miscellaneous proceeding. Upon 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.

~~(3)~~ The party filing a notice of removal shall file a complete copy of the state court record, including transcripts available to the removing party, concurrently with and as a supplement to the notice of removal using the Notice of Submission event. The supplement shall include a verified statement from the removing party that the state court record is complete as of the date of removal, and shall contain a copy of the state court docket sheet, all pleadings, motions, orders, and all other filings, organized in chronological order by the state court filing date.

(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 to refer the matter to the Bankruptcy Court may be filed with the District Court.

(c) 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.

(d) Deadline to File Motion for Remand

A motion for remand of a claim or cause of action removed to the bankruptcy court, other than one based upon the lack of subject matter jurisdiction, shall be filed within 30 days after the filing of the notice of removal and shall be served upon all parties to the removed action.

Comment

New subparagraph (a)(3) added to provide parties seeking removal with instructions regarding the substance of the state court record and procedure for its transmission to the Bankruptcy Court.

B-9037-1. PRIVACY PROTECTION FOR FILINGS MADE WITH THE COURT

(a) Motion to Redact a Previously Filed Document

A party seeking to redact from a previously filed document information that is protected under Fed.R.Bankr.P. 9037(a) shall:

- (1) file a Motion to Redact a Previously Filed Document that identifies the proposed redactions;
- (2) include within the motion the docket or claim number of the previously filed document; and
- (3) serve the motion and attachments on the Debtor, Debtor's attorney, trustee (if any), UST, the filer of the previously filed document (the "Original Filer"), and any individual whose personal identifying information is to be redacted.

The event Motion to Restrict Access is intended for use with requests under 11 U.S.C. §107 and should not be used when requesting removal of personal identifiers.

(b) Restricting Public Access to the Unredacted Document; Docketing the Redacted Document

The Clerk shall promptly restrict public access to the Motion to Redact a Previously Filed Document and the unredacted document pending the Court's ruling. If the Court grants the motion, the Original Filer shall ~~docket~~file the redacted version of the document and the restrictions on public access to the motion and the unredacted document remain in effect, unless the Court orders otherwise. If the Court denies the motion, the restrictions shall be lifted, unless the Court orders otherwise.

(c) No Notice or Hearing Required

The Court may rule upon a Motion to Redact a Previously Filed Document without notice or hearing.

(d) Filing Fee

The required filing fee is due if the Motion to Redact a Previously Filed Document is filed by the Original Filer. The fee is waived for all other parties.

(e) Omnibus Motion to Redact Procedure

A party that seeks redaction of documents in more than ten cases may file a miscellaneous proceeding in accordance with the Court's Procedures Manual.

Comment

Minor language revision made to subparagraph (b).