DECEMBER 2017 AMENDMENTS

B-1000-1. ABBREVIATIONS AND DEFINITIONS

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(b) Definitions Applicable to All Rules

(1) Debtor: includes both debtors in a joint case and a debtor-in-possession in a Chapter 11 or Chapter 12 case. A requirement imposed upon the "Debtor" by these rules shall be performed by counsel for the Debtor, if any, except as follows:

(A) Official Forms must be signed by the Debtor ~~(~~or the Debtor's representative in a non-individual case pursuant to Fed.R.Bankr.P. 9001(5)~~)~~; and

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Comments

Edits made at suggestion of reviewer retained by Circuit Judicial Council. Also edited to cover Chapter 12 debtors as debtors-in-possession.

B-3002.1-~~1~~ 4. MOTIONS TO DEEM MORTGAGE CURRENT

If the trustee is not required to file a Notice of Final Cure Payment pursuant to Fed.R.Bankr.P. 3002.1(d), a Chapter 13 Debtor may file a Motion to Deem Mortgage Current after all payments have been made pursuant to the confirmed plan. ~~only as to any mortgage that is not subject to Fed.R.Bankr.P. 3002.1.~~ The Chapter 13 Debtor shall provide the mortgage lender with a notice giving the lender twenty-one (21) days from the date of service to file an objection. Along with the motion, the Chapter 13 Debtor shall file a copy of the notice and a certificate of service that complies with S.D.Ind. B-9013-2.

Comments

The rule is renumbered for better flow within the local rules. New B-3002.1-1, below, imposes additional notice requirements on mortgage lenders during the case. B-3002.1-2 allows mortgage lenders with frequently changing payment amounts to be excused from filing notices of payment change. B-3002.1-3 waives a hearing if the lender and the trustee or Debtor reach agreement after the filing of a notice of final cure payment. This rule gives the debtor the option of seeking assurance that a mortgage as to which there was no pre-petition default is in fact current at the end of the case.

Edits to the text of the rule clarify that a motion to deem mortgage current is only needed if the trustee was not required to file a notice of final cure payment. The language restricting motions to deem mortgage current to loans not covered under Fed.R.Bankr.P. 3002.1 is stricken as the new prefatory clause provides the same guidance more clearly.

B-3002.1-1. ~~MOTIONS TO DEEM MORTGAGE CURRENT~~ ADDITIONAL NOTICE REQUIREMENTS FOR MORTGAGE LENDERS

(a) Notice of Payment Change and of Fees, Expenses and Charges

All creditors with claims secured by a security interest in real estate shall comply with the requirements of Fed.R.Bankr.P. 3002.1(b) and (c), without regard to whether the real estate is the Debtor's principal residence.

(b) Notice of Change in Servicer

If the mortgage servicer changes while the bankruptcy is pending, the mortgage holder shall file with the Court and serve upon the Debtor, Debtor's counsel, and the trustee a notice setting forth the change and providing the name of the servicer, the payment address, a contact phone number and a contact email address.

Comments

This rule is new. For years the Chapter 13 plan form in use in this District required mortgage lenders to provide additional notice. The Committee determined that it would be appropriate for that requirement to be spelled out in the local rules, rather than only in the plan form.

B-3002.1-2. NOTICE OF EXCEPTION TO FILING NOTICES OF PAYMENT CHANGE PURSUANT TO FED.R.BANKR.P. 3002.1(b)

~~(a)~~ Eligibility for Use of Notice of Exception to Filing a Notice of Payment Change

A creditor may use the procedure provided for by this local rule if:

(1) the creditor asserts a claim secured by a security interest in the Debtor's real property;

(2) that claim is provided for in the plan under §1322(b)(5); and

(3) the monthly amount due on the claim changes more than once every sixty (60) days because the creditor's agreement with the Debtor provides for a variable interest rate and/or a variable payment amount, or the creditor is eligible for the exception in subparagraph (e).

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(e) Limited Exception During Loan Modification Process

If the Debtor files a Motion to Approve Loss Mitigation Agreement, a Motion to Approve a Trial Modification Agreement, or a Motion to Modify Secured Debt (collectively, a "Modification Motion"), the creditor is excused from filing a Notice of Payment Change while that Modification Motion is pending. No later than twenty-one (21) days after the date of the entry of an order approving the Modification Motion, a creditor shall file and serve on the trustee, the Debtor, and the UST a Notice of Payment Change.

Comments

The proposed amendments are intended to provide a limited exception to mortgage servicers regarding the timing of their Notices of Payment Change when a loan modification has been entered into with the Debtor, whether directly or through use of the District's loss mitigation program.

B-3006-1. WITHDRAWAL OF PROOF OF CLAIM

A claimant who files a motion to withdraw a proof of claim shall provide the Debtor, any trustee, any creditors' committee, the UST, and any entity that objected to the claim notice of the motion. That notice shall give twenty-one (21) days from the date of service for the filing of any objection. Along with the motion, the claimant shall file a copy of the notice and a certificate of service that complies with S.D. Ind. B-9013-2. The motion, notice, and certificate of service may be combined into one document. A sample combined motion to withdraw, notice, and certificate of service is available on the Court's website.

Comments

The rule is edited to shift the burden for providing notice of a motion to withdraw a claim onto the movant. Service of that notice is determined in part by Fed.R.Bankr.P. 3006.

B-3007-1. OBJECTIONS TO CLAIMS: NOTICE

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~~(b) Service~~

~~The objection and notice shall be served as follows:~~

~~(2) on the claimant, by first-class mail addressed to the person most recently designated on the original or amended proof of claim as the person to receive notices, at the address so indicated; and~~

~~(A) if the objection is to a claim of the United States or any of its officers or agencies, in the manner provided for serving a summons and complaint by Fed.R.Bankr.P. 7004(b)(4) or (5); or~~

~~(B) if the objection is to a claim of an insured depository institution, according to Fed.R.Bankr.P. 7004(h); and~~

~~(3) on the Debtor, the trustee, and the UST electronically, by first-class mail or by other permitted means.~~

(~~c~~ b) Filing; Certificate of Service

Comments

Edits to Fed.R.Bankr.P. 3007 effective December 1, 2017, eliminate the need for subparagraph (b) so it is dropped, and subparagraph (c) becomes (b).

B-3015-1. FILING AND DISTRIBUTION OF CHAPTER 13 PLANS

(a) Form of Plan

As permitted by Fed.R.Bankr.P. 3015.1, the Court has adopted a Local Form for the Chapter 13 plan ("the Local Form Plan") which shall be used instead of Official Form 113. Chapter 13 plans and amended plans shall use the ~~applicable Model~~ Local Form Plan, ~~form approved by the Court. The Model Plan~~ which is available on the Court's website or from the Bankruptcy Clerk. ~~If there is a pre-petition arrearage claim on a mortgage secured by the Debtor's residential real property, then both the pre-petition arrearage and the post-petition mortgage installments shall be made through the Chapter 13 Trustee. Such disbursements shall be subject to the trustee's percentage fee as set by the UST.~~

(b) Extension of Time to File Plan

A motion to extend the time to file a Chapter 13 plan must be filed within fourteen (14) days after the commencement of the case.

(c) Payment of Pre-Petition Arrearage through Trustee

If there is a pre-petition arrearage claim on a mortgage secured by the Debtor's residential real property, then both the **payment of the** pre-petition arrearage and the post-petition mortgage installments shall be made through the Chapter 13 Trustee. Such disbursements shall be subject to the trustee's percentage fee as set by the UST.

(~~c~~ d) Distribution of Plans and Amended Plans

The Chapter 13 Trustee appointed in the case shall distribute the original plan, the first and second amended plans and any related notice, and file a certificate of service that complies with S.D.Ind. B-9013-2. If service of the plan other than by first class mail is required by Fed.R.Bankr.P. 3012 or 4003, then the trustee may require Debtors to distribute the plan to that entity and provide proof of service to the trustee. Debtors shall distribute any third amended or subsequent plan and any related notice, and file a certificate of service that complies with S.D.Ind. B-9013-2.

Comments

Amendments to the Federal Rules of Bankruptcy Procedure effective December 1, 2017, edit national rule 3015 to require use of an Official Form for the Chapter 13 plan, but new Fed.R.Bankr.P. 3015.1 allows each court to require instead that a local form be used – if that form satisfies certain requirements. Concurrent with publication of these proposed local rule amendments for public comment, the proposed Local Form Chapter 13 plan will also be made available for comment. The Local Form is a modification of the plan form that has been used in the District for many years.

This amendment also shifts into the local rule General Order 09-0005, requiring pre-petition mortgage arrearage claims to be paid through the trustee.

Finally, amendments to the Federal Rules of Bankruptcy Procedure effective December 1, 2017, also require service of the plan pursuant to Fed.R.Bankr.P. 7004 if certain types of relief are requested. For example, a request to determine the amount of a secured claim, if directed at an insured depository, would

require service by certified mail. The rule is edited to permit the trustee to shift any special noticing back onto the debtor for the first through third plans.

B-3015-~~2~~ 4. DISTRIBUTION OF CHAPTER 12 PLANS

The Debtor in a Chapter 12 case shall distribute any plan, amended plan, or motion to modify a plan, and any related notice, and shall file a certificate of service that complies with S.D.Ind. B-9013-2.

Comments

The rule is renumbered to match with the national uniform numbering system for local rules.

B-3015-4 3. PRE-CONFIRMATION PAYMENTS AND CONFIRMATION HEARINGS

(a) Pre-confirmation Payments as Adequate Protection

~~For all cases filed on or after October 17, 2005,~~ In Chapter 13 cases, unless otherwise ordered, for secured claims other than those asserting a lien on real estate, "adequate protection" under 11 U.S.C. §1326(a)(1)(C) shall be paid by the Debtor directly to the trustee, as a portion of the payment made under 11 U.S.C. §1326(a)(1), in an amount equal to one percent (1%) of the secured creditor's allowed secured claim. Such amount shall be presumed to constitute adequate protection although that presumption may be rebutted. The trustee shall disburse adequate protection payments to the secured creditor as soon as practicable after receiving them from the Debtor. All adequate protection payments shall be subject to the trustee's percentage fee ~~as set by the UST~~.

(b) Confirmation Hearings

Consistent with 11 U.S.C. §1324(b), absent a contrary order or objection it is in the best interests of creditors and the bankruptcy estate to hold a confirmation hearing, ~~in cases filed on or after October 17, 2005,~~ prior to twenty-~~one~~ eight (2~~1~~8) days after the ~~11 U.S.C. §341(a) meeting of creditors.~~ objection is filed.

Comments

Since the Court is not conducting confirmation hearings in pre-BAPCPA cases, rule edited to delete date references. Other edits in paragraph (a) proposed for clarity. As to paragraph (b), impending amendment to Fed.R.Bankr.P. 2002 requires 28 days' notice of the confirmation hearing. Seems that Court can order otherwise, so this rule would do that.

The rule is also renumbered to better match with the national uniform numbering system for local rules. (Note: the Judges are considering changes to the Chapter 13 confirmation hearing process which may render subparagraph (b) obsolete.)

B-3015-~~3~~ 2. FILING AND DISTRIBUTION OF PRE-CONFIRMATION AND POST-CONFIRMATION MODIFICATIONS TO CHAPTER 13 PLANS

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Comments

The rule is renumbered to match with the national uniform numbering system for local rules.

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

(a) Relief from Stay or Co-Debtor Stay

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(4) Notice and Disposition

(A) Chapters 7, 12, and 13

In cases pending under any chapter except Chapter 11, notice of the motion shall be distributed by the movant to the Debtor, parties that have entered an appearance, any trustee, and the UST, except as otherwise provided by S.D.Ind. B-2002-1(c). In a Chapter 12 or a Chapter 13 case, notice shall also be served on any co-debtor. If the motion also seeks abandonment, notice must be distributed to all creditors and parties in interest. The notice shall allow fourteen (14) days from the date of service to file objections. Along with the notice, the moving party shall file a copy of the motion and a certificate of service that complies with S.D.Ind. B-9013-2. A sample notice is available on the Court's website. If no proper response to the motion is filed, the Court may grant relief from the stay without further notice or hearing. At any hearing on the motion the Debtor or objecting party has the burden of establishing any payment alleged to have been made but not set forth in the payment history.

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(b) Extend or Impose the Stay

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(2) Motion Filed More than Ten (10) 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 subsection even if the tenth day after the petition date falls on a Saturday, Sunday, or legal holiday.

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Comments

This edit to subparagraph (a) is proposed to make clear that notice of a motion for relief from stay must be

given to any co-debtor. This notice is required even if the motion seeks general relief, and not just relief as to the co-debtor stay. The edit to subparagraph (b) made at suggestion of reviewer retained by Circuit Judicial Council.

B-4001-3. OBTAINING CREDIT IN CHAPTER 13 CASES

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(d) Motion Directed to Court

If the proposed debt is greater than one thousand dollars ($1000.00) and is to be secured by real property or if Debtor's request under subparagraph (b) is not approved by the trustee, the Debtor may file a motion to incur such debt. The motion shall contain all of the information required for the request by subparagraph (b) and be served on the trustee. If the new debt will replace an existing obligation secured by the debtor's property, then the motion shall also include the principal loan balance of the original debt, the rate of interest, the amount of any monthly escrow for taxes or insurance, the monthly payment, and the maturity date. The Court shall give the trustee fourteen (14) days' notice of the opportunity to object to the Motion to Incur Debt.

Comments

Occasionally a motion to incur debt seeks to replace an existing debt that is secured by the debtor's property. In those refinancing situations, the Judges want to consider the same information they would in a motion to modify secured debt. Therefore, the information required by Local Rule B-4001-4 as to motions to modify mortgages is added into this rule. The requirement extends to all secured loans, so that proper assessment of a proposal to refinance a vehicle can occur.

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

In a Chapter 13 case, if a debt secured by real estate is modified, the Debtor shall file a Motion to Modify Secured Debt. Any such motion ~~to modify 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, whether the payment will be made by the trustee or paid directly by the Debtor, and the maturity date of the proposed modified note. A sample motion is available on the Court's website.

Comments

The proposed amendments are intended to require debtor's counsel in a Chapter 13 case to file a motion to modify a debt secured by real estate if there is a loan modification negotiated to assure that the Chapter 13 trustee is aware of the change, especially where the trustee is making the ongoing mortgage payments.

B-4004-3. MODIFICATION OF DEADLINE FOR OBJECTIONS TO DISCHARGE

The deadlines set pursuant to Fed.R.Bankr.P. 4004(a) for filing a complaint or motion objecting to discharge under §727, and for filing a motion objecting to discharge under §1328(f), are modified in the following circumstances:

(a) Meeting of Creditors Untimely Noticed

If service of the §341 or post-conversion meeting notice is not timely provided pursuant to Fed.R.Bankr.P. 2002(a), and as a result of this failure to provide notice the §341 meeting must be rescheduled before another notice can be served, the deadline for objecting to discharge under §§ 727(a) or 1328(f) shall be sixty (60) days after the rescheduled date of the §341 meeting.

(b) Case Dismissed and Reinstated

If a case is dismissed prior to the expiration of the deadline for objecting to discharge and subsequently reinstated:

(1) in a case dismissed before the §341 meeting is held, the new deadline for objecting to discharge under §§727 or 1328(f) shall be sixty (60) days after the rescheduled §341 meeting; or

(2) in a case dismissed after the §341 meeting is held, the new deadline for objecting to discharge under §§727 or 1328(f) shall be sixty (60) days from entry of the order reinstating the case.

(c) Notice of New Deadline

The Clerk shall provide notice of new deadlines established under this rule.

Comments

This new rule sets clear deadlines for complaints or motions to deny discharge if original notice of the first meeting is fumbled or if the case is dismissed and then reinstated. The rule mirrors a similar rule in the Southern District of Florida.

B-4007-1. MODIFICATION OF DEADLINE FOR OBJECTING TO DISCHARGEABILITY OF A DEBT

The deadline set pursuant to Bankruptcy Rule 4007(c), for filing a complaint objecting to dischargeability of a debt is modified in the following circumstances:

(a) Meeting of Creditors Untimely Noticed

If service of the §341 or post-conversion meeting notice is not timely provided pursuant to Fed.R.Bankr.P. 2002(a), and as a result of this failure to provide notice the §341 meeting must be rescheduled before another notice can be served, the deadline for filing objections to dischargeability of a debt shall be sixty (60) days after the rescheduled date of the §341 meeting.

(b) Case Dismissed and Reinstate

If a case is dismissed prior to the expiration of the deadline for objecting to dischargeability and subsequently reinstated:

(1) in a case dismissed before the §341 meeting is held, the new deadline for filing objections to dischargeability shall be sixty (60) days after the rescheduled §341 meeting, and the Clerk shall serve a new §341 notice which notifies all creditors of the deadline; or

(2) in a case dismissed after the §341 meeting is held, the new deadline for filing objections to dischargeability shall be sixty (60) days from entry of the order reinstating the case.

(c) Notice of New Deadline

The Clerk shall provide notice of any new deadlines established under this rule.

Comments

This new rule sets clear deadlines for complaints to determine dischargeability if original notice of the first meeting is fumbled or if the case is dismissed and then reinstated. The rule mirrors a similar rule in the Southern District of Florida.

B-5011-1. WITHDRAWAL OF REFERENCE

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(d) Designation of Record

The moving party shall serve and file, together with the motion to withdraw the reference, a designation of those portions of the record believed to be necessary or pertinent to the District Court's consideration of the motion. Within fourteen (14) days after service of such designation of record, any other party may serve and file a designation of additional portions of the record. All designated documents shall be identified by document number and document title as noted on the docket. A marked up copy of the docket or any portion thereof will not be accepted as a proper designation. If the record designated by any party includes a transcript of any proceeding, that party shall file a written request for the transcript and include with the request the fee for preparation of the transcript. The docketed electronic file of any recording made at the hearing is not the official record and may not be included in the designation of the record.

Comments

The rule is edited to address common recurring problems with the designation of the record.

B-6004-1. SALE OF ASSETS OUTSIDE THE ORDINARY COURSE PURSUANT TO 11 U.S.C. §363: GENERALLY

(a) Applicability of Local Rule

This rule applies to any motion to approve the sale of assets, outside the ordinary course of business, pursuant to 11 U.S.C. §363 (the "Motion to Sell"), including motions filed by a trustee or a Debtor. This rule, and B-6004-2 through B-6004-5, do not apply to sales proposed as part of a Chapter 11 plan.

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(c) Sale of Co-Owned Property

Before filing a Motion to Sell co-owned property, the party proposing the sale shall comply with Local Rule B-7001-2.

(d) Procedure; Contents of Motion; Notice

Unless otherwise ordered, any Motion to Sell shall follow the procedures outlined in and provide the information required by Local Rules B-6004-2 through B-6004-5, depending on the type of sale.

Comments

Subparagraph (a) is amended to clarify that compliance with these sale rules is excused for sales pursuant to Chapter 11 plans, not plans under other chapters. Sales through a Chapter 11 plan include the disclosure statement process, thus ensuring ample notice of sale details to parties.

The added subparagraph reminds parties that if the property to be sold is co-owned, authority to proceed with the sale must be obtained before filing a motion to sell.

B-7001-2. COMPLAINTS TO OBTAIN APPROVAL OF SALE OF CO-OWNED PROPERTY

(a) Adversary Required

Any sale of property co-owned by an entity other than the Debtor requires an adversary proceeding, unless excused by subparagraph (d) of this rule.

(b) Relief Requested

A complaint filed pursuant to Fed.R.Bankr.P. 7001(4) and 11 U.S.C. §363(h) shall request only the authority to sell property co-owned by the estate and another entity or entities. The complaint shall not seek approval of any terms of sale.

(c) Motion to Sell Required

If the Court authorizes the sale of co-owned property, then the party seeking the sale shall

file a Motion to Sell pursuant to 11 U.S.C. §363 and Local Rules B-6004-1 through 6004-5, as applicable.

(d) Adversary Proceeding Excused

If the party seeking the sale obtains the consent of all co-owners, then an adversary proceeding is not required and a Motion to Sell can be filed. Co-owner consent shall be shown by affidavit, and all affidavits shall be attached as exhibits to the Motion to Sell.

Comments

This rule attempts to bring clarity to the procedure for selling co-owned property. While an adversary proceeding is required to obtain authority to sell co-owned property, to ensure proper notice to all affected parties and to creditors generally, a motion to sell must be filed after authority to sell is granted. The rule creates an exception to the requirement of an adversary proceeding if the movant obtains affidavits from all co-owners authorizing the sale.

B-8006-1. RECORD ~~AND ISSUES~~ ON APPEAL

(~~a~~ b) Failure to Designate ~~Designating~~ Record on Appeal

If the parties fail to file a timely designation of record with the Clerk pursuant to Fed.R.Bankr.P. 8006, the Clerk shall forward a certification that no designation of record was filed.

(~~b~~ a) ~~Copies~~ Designation of Record

The party filing the designation of items to be included in the record on appeal shall list the items with the Court's document number~~s~~ and document title as displayed on the docket. A marked up copy of the docket or any portion thereof will not be accepted as a proper designation. If the record designated by any party includes a transcript of any proceeding, that party shall file a written request for the transcript and include with the request the fee for preparation of the transcript. The docketed electronic file of any recording made at the hearing is not the official record and may not be included in the designation of the record.

Comments

The rule is edited to clarify the requirements for designating the record on appeal, and to address common problems with such designations. Paragraphs (a) and (b) will be flipped in the final version.

B-9010-1. APPEARANCES

(a) Appearances: When Required

(1) Bankruptcy Cases

Each attorney representing a party, whether in person or by filing any document [other than a proof of claim, a reaffirmation agreement, request pursuant to Fed.R.Bankr.P. 2002(g), or creditor change of address], must file a separate appearance for such party. An attorney who files a case for a Debtor using the

Court's electronic filing system and is designated as counsel for the Debtor in that process need not file a separate appearance for that case.

(2) Adversary Proceedings

Counsel for the plaintiff, including Debtor's counsel, shall file an appearance with the complaint. Counsel for a defendant, including Debtor's counsel, shall file an appearance before filing any other pleading.

(3) Removed and Transferred Cases

Any attorney of record whose name does not appear on this Court's docket following the removal of a case must file an appearance or a copy of the appearance as previously filed in the other venue.

Within twenty-one (21) days of removal or transfer of a case to this Court, any attorney of record who is not admitted to practice before this Court must either comply with this Court's admission policy, as set forth in S.D. Ind. B-9010-3, or withdraw his/her appearance, as permitted under S.D.Ind. B-9010-2.

(b) Content of Appearance; Service

The appearance shall include the attorney's address, telephone number, and an e-mail address for electronic service. The appearance shall be served upon all counsel of record, the Debtor if not represented by counsel, and in an adversary proceeding on any party not represented by counsel. Any change to an appearance shall be filed with the Clerk and served upon all counsel of record, the Debtor if not represented by counsel, and in an adversary proceeding on any party not represented by counsel.

Comments

The original version of this rule, after a series of amendments, had become unclear and difficult to follow. This rule is entirely new. A comparison to the original using redline and strikeout would be challenging to follow, especially since portions of the current rule are shifted to a new rule. Changes are summarized here.

The committee is recommending that instructions as to withdrawal of appearance and substitution of counsel be moved to a separate rule, 9010-2 (a change that then shifts current 9010-2, on bar admission, to 9010-3). What remains in this rule is restructured so that the first paragraph is about when an appearance is required and the second paragraph gives guidance on content and service.

B-9010-2. SUBSTITUTION AND WITHDRAWAL OF APPEARANCE

(a) Substitution.

If a party in an adversary proceeding or a debtor in any case wishes to substitute attorneys, a substitution of appearance signed by the original attorney and the substituted attorney shall be filed. If a trustee, debtor or official committee wishes to substitute attorneys or any other professional whose employment was subject to approval by the Court, an application to employ the new professional must also be filed. If the attorney being

replaced is unavailable to sign the substitution of appearance, the substituted attorney shall include an affidavit stating the reasons for the unavailability.

(b) Notice of Withdrawal.

An attorney for a party other than the Debtor may withdraw an appearance by filing a notice of withdrawal (i) when another attorney remains attorney of record for the party, or (ii) when the party has no controversy pending before the Court. Otherwise, a motion to withdraw is required.

(c) Motion to Withdraw: Requirements. When a motion to withdraw is required, the motion shall provide:

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

(2) an attached a 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 thirty (30) days or that gives the details of that hearing, conference, or deadline; and

(3) provide the party's last known telephone number.

(d) Service.

Substitutions of appearance and motions to withdraw shall be served (i) in an adversary proceeding, on all parties to the proceeding and (ii) in a bankruptcy case, on all counsel of record, and the Debtor if not represented by counsel.

(e) Effect of Failure to Comply.

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

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

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 shall remove the attorney from the list of attorneys receiving notices and orders in the case or adversary proceeding. The Court's docket will continue to show the attorney, with a notation that the attorney's appearance has been terminated.

Comments

This rule is new. The process of substituting or withdrawing appearance is pulled out of S.D.Ind. 9010-1, and that rule now applies only to appearances. This rule is patterned after a similar rule used by the bankruptcy court for the District of Delaware.

Substantive changes from the previously existing requirements as to substitution and withdrawal are:

- Adds the requirement that when the party will be left without counsel, if the party did not instruct the attorney to withdraw, the attorney's notice to the client must inform the client of upcoming

deadlines and hearings. (Note: the Judges added the requirement of a statement if there are no such deadlines/hearings.)

- Shifts the 7-day period for notice to the client to before the filing of the motion, rather than allowing the period to run while the motion is pending. (Given the challenge of determining when the seven days have passed, the Court has been holding for seven days all motions to withdraw where notice to the client was required before granting the motion.)
- Expands and clarifies the proper use of a substitution of appearance.
- Explains how information about the withdrawn attorney will appear on the case or adversary proceeding docket.

B-9010-~~2~~ 3. BAR ADMISSION

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Comments

Because of new rule 9010-2, this rule has to be renumbered to 9010-3.

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

(a) Proper CM/ECF Events

(1) If a party seeks to remove the party's own document, the party shall file a Motion to Remove Document Pursuant to Fed.R.Bankr.P. 9037.

(2) If a party seeks removal of a document filed by a different party, then the party shall file a Motion for Protective Order Pursuant to Fed.R.Bankr.P. 9037.

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

(b) No Notice or Hearing Required

The Court may rule upon a Motion for a Protective Order filed pursuant to Fed.R.Bankr.P. 9037(d) or a motion to remove a document without notice or hearing.

(c) No Fee for Motion for Protective Order

No filing fee will be charged for a Motion for Protective Order Pursuant to Fed.R Bankr.P. 9037.

Comments

These edits shift into the local rule General Order 14-006, which provides guidance on the proper way to address disclosure of personal identifiers and waives the fee if the party seeking removal was not the party that filed the offending document.