

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA

**PROPOSED AMENDMENTS TO  
LOCAL RULES AND CHAPTER 13 PLAN:  
PUBLIC COMMENT PERIOD**

The Court is proposing edits to its local rules and to the Chapter 13 plan form, to be effective December 1, 2019. A complete set of the proposed amendments and a copy of the proposed revised plan accompany this notice.

Edits required by changes to the national rules effective December 1<sup>st</sup> appear in Local Rules B-6007-1 and B-9037-1.

Most of the other edits result from the efforts to impose a uniform style on and bring better clarity to the local rules, a process that started with edits to the 1000 through 3000 series last December. Many of the edits to the second half of the current local rules – the 4000 series to the 9000 series – are for style and clarity only.

Several substantive edits are proposed. Review of the attached version showing all the proposed changes is recommended, but a few are highlighted here:

B-1002-1: Edits require separate filing of certain documents related to evictions and rent deposits.

B-2014-1: Counsel for the debtor in a Chapter 11 case would be required to file an application to employ within fourteen days.

B-2016-1: The “no look” fee in Chapter 13 cases would be called the Presumed Reasonable Fee and use of that streamlined fee process may not be available to successor counsel.

B-3002.1-3: The rule now requires that a mortgage lender responding to a notice of final cure payment must use the Director’s Form and provide additional information. (Other language from current B-3002.1-3 is shifted to new rule B-3002.1-4 and current B-3002.1-4 becomes B-3002.1-5.)

B-3015-2: In certain situations when plan modification is proposed, Chapter 13 debtors will be required to file supplemental Schedules I and J.

B-4001-1: Whether a motion for relief from stay is set for hearing or negative notice is used turns on whether the filer has waived the 30-day requirement for a hearing, and not on the case chapter. Any motion to impose the stay (in a repeat filing situation) to stop a sale or other disposition of property must provide additional information.

B-6004-3: The process for a private sale by agent is dropped from the rules.

B-7056-1: The summary judgment process is clarified.

B-9010-1: The requirement of filing a separate appearance is dropped. An attorney’s first pleading is treated as an appearance.

B-9015-1: Changes would allow the Court to address a jury trial demand more promptly.

B-9019-2: The mediation process is clarified and streamlined.

The local Chapter 13 plan form is changed. Most edits are stylistic, but substantive changes were made to paragraphs 6 and 11. In paragraph 6, the debtor must provide information about the holder of a domestic support obligation that the debtor is paying outside the plan. In paragraph 11, concerning executory contracts and leases, the "NONE" box is eliminated as its presence created some confusion.

The Judges reserve the right to make additional changes to the rules and the plan form, based on comments received, before the December 1<sup>st</sup> effective date.

Comments to the proposed rules edits can be made by sending an email to [Local\\_Rules\\_Comments@insb.uscourts.gov](mailto:Local_Rules_Comments@insb.uscourts.gov) . Deadline for comments is **5:00 PM on Friday, November 22, 2019**.

Note: these rules edits do not include any changes that will be required by the Small Business Reorganization Act of 2019 that becomes effective February 19, 2020. More information about the procedural changes required by that new law will be shared early in 2020.

October 28, 2019

/s/ Kevin P. Dempsey  
Clerk

## 2019 Amendments

### B-1002-1. FILING REQUIREMENTS TO COMMENCE A VOLUNTARY CASE

#### (a) Initial Filing

A voluntary case is commenced by the filing of a voluntary petition along with the lists, schedules, statements, and other documents required by Fed.R.Bankr.P. 1002, ~~and~~ 1007, ~~and~~ 11 U.S.C. §§301 and 521, or by subparagraph (b) of this rule. Filings can be made either electronically or non-electronically under S.D. Ind. B-5005-1 and B-5005-4.

#### (b) Eviction Judgments and Rent Deposits

A Debtor who reports that a landlord has obtained an eviction judgment shall file, separately from the petition, the required Initial Statement About an Eviction Judgment Against You (Form 101A), serve a copy of the form on the landlord and the landlord's counsel, and file a Certificate of Service. A Debtor who files the Statement About Payment of an Eviction Judgment Against You (Form 101B) shall do so within 30 days after the petition is filed and shall serve a copy of the form on the landlord and the landlord's counsel and file a Certificate of Service.

#### ~~(b)~~(c) Emergency Filing: Minimum Required

A voluntary petition filed without the lists, schedules, statements, and other documents required by Fed.R.Bankr.P. 1007 and 11 U.S.C. §521 shall be accompanied by:

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- (3) the appropriate filing fee, an Application to Pay Filing Fee in Installments (Official Form 103A), or, if a Chapter 7, an application requesting waiver of the filing fee (Official Form 103B);
- (4) uploaded creditor information necessary to provide proper notice to all scheduled creditors or, if filed non-electronically, ~~the CD, diskette, DVD, flash drive, or other acceptable medium~~ creditor information in a form required by S.D.Ind. B-1007-1(b); and
- (5) in a Chapter 11 case, the list of the ~~twenty~~ 20 largest unsecured creditors and a list of creditors who have or claim to have a secured claim.

#### ~~(e)~~(d) Emergency Filing: Dismissal for Failure to Provide Required Documents

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#### ~~(d)~~(e) Filing a Case Non-Electronically

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#### ~~(e)~~(f) Transfer to Correct Division

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Comments

New subparagraph (b) added to provide procedure for debtor subject to landlord’s eviction judgment. Subparagraph (c)(4) amended to reflect addition of typewritten list of creditors as accepted medium under S.D.Ind. B-1007-1(b). Other edits are for style uniformity and clarity.

**B-1007-1. LISTS, SCHEDULES, AND STATEMENTS; TIME LIMITS**

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(b) Providing Creditor Information for Cases Filed Non-Electronically

All cases and an amendment that adds creditors, filed non-electronically, ~~must~~ shall be accompanied by a CD, diskette, DVD, flash drive, or other acceptable medium with the complete names and addresses of the creditors listed in the filing. In Chapter 11 cases, the list ~~must~~ shall include equity security holders, if applicable. An exception to the requirement will be considered by the Court if a request for waiver is filed with the petition. The Clerk may accept a typed list of creditors if the information cannot be submitted in an electronic format.

(c) Extensions of Time

(1) Motions Generally

The Court shall treat the first motion for an extension of time to file the initial lists, schedules, statements, and other documents required to commence a new case as a request for an extension of 30 days and the Clerk will provide notice except as described in subparagraph (c)(2) of this rule. The Debtor shall serve a subsequent motion for an extension of time on any trustee, the UST, any examiner, and any committee, and that service shall constitute the notice required by Fed.R.Bankr.P. 1007(c).

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Comments

Subparagraph (b) amended to reflect Clerk’s Office new practice of accepting typewritten list of creditors as alternative to required formats.

**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.

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Comments

Subparagraphs (a)(1) and (2) amended to clarify that the 300-creditor threshold applies to the aggregate number of creditors in single, consolidated and jointly administered cases.

**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) ~~below~~ of this rule, a pleading or document filed in a jointly administered cases 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 ~~must~~ 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; and

(ix) documents related to the foregoing.

(B) Chapter 11 Cases

(i) plans, disclosure statements, ballot report, and objections or other documents related thereto;

(ii) debtor monthly operating reports;

(iii) Motions to Extend Exclusivity Period/Deadlines Under 1121, 1129, or 1221; and

(iv) documents related to the foregoing.

~~(A) schedules, statements of financial affairs, and amendments thereto;~~

~~(B) in Chapter 11 cases, plans and disclosure statements and objections or other pleadings related thereto, and ballot reports;~~

~~(C) trustee final reports and accounts and related notices; and~~

~~(D) motions to dismiss.~~

(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.

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Comments

Subparagraph (b)(5) amended to list additional documents to be filed in the Lead or Member Cases when joint administration is ordered.

**B-2014-1. EMPLOYMENT OF PROFESSIONAL PERSONS AND TREATMENT OF RETAINERS IN CHAPTER 11 CASES**

(a) Employment Applications Generally

A person (the “Applicant”) seeking Court approval of the employment of a professional person (the “Professional”) under 11 U.S.C. §§327, 1103(a), or 1114 shall file an application and a supporting affidavit or verified statement of the professional complying with Fed.R.Bankr.P. 2014 (an “Employment Application”) and submit a proposed order. The Employment Application shall state the proposed terms of employment. If employment is at an hourly rate, the proposed hourly rates of all Professionals who will work on the case shall be provided. If employment is on a contingent fee basis, the percentages and triggering events shall be disclosed. After discovering any additional material information relating to the employment, the Applicant and Professional shall file and serve a supplemental affidavit disclosing the additional information.

(b) Employment Applications in Chapter 11 Cases

(1) Time to File

An Employment Application for the Debtor’s counsel in a Chapter 11 case shall be filed within 14 days after the commencement of the case.

~~(1)~~(2) Service of Notice and Hearing

(A) Service and Notice of Employment Application

The Applicant shall serve ~~on the Service List~~ the Employment Application, including the supporting affidavit or verified statement, and a 21-day Objection Notice ~~any supplemental affidavit~~ on the Service List and other parties as directed by the Court. Along with the Employment Application, the Applicant shall file a Certificate of Service. The application, notice, and

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

~~(B)~~ Notice of the Employment Application

The Applicant shall also send a 21-day Objection Notice to the Service List and other parties as directed by the Court. The notice shall include the name of the Professional sought to be employed, a summary of the terms of employment, and if the Employment Application also requests approval of a periodic payment procedure under subparagraph (b)(4) or (5) of this rule the proposed terms for periodic payment. The Applicant shall file a copy of the notice and a Certificate of Service.

~~(C)~~(B) Objections, Court Review, and Effective Date

An objection ~~must~~shall be filed and served upon the Applicant, the Professional, the Service List, and other parties as directed by the Court. If no objection is filed, the Court may grant the Employment Application and approve the proposed employment and a periodic payment procedure without a hearing or further notice. If the Employment Application is granted, the employment shall be effective as of the date the Employment Application was filed unless the Court orders otherwise.

~~(23)~~ Conflicts

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~~(34)~~ Treatment of Retainer

A proposed Professional shall obtain Court approval of the terms for applying a retainer to the payment of the Professional's fees and expenses. Those terms may be similar to the following:

- (A) apply the retainer to satisfy the Professional's fees and expenses as ~~they are~~ awarded by the Court under 11 U.S.C. §§330 and 331;

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~~(45)~~ Procedure for Periodic Payment from Retainer

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~~(56)~~ Other Periodic Payment Procedure

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## Comments

New subparagraph (b)(1) added to provide for filing of applications to employ Chapter 11 counsel within 14 days of petition date. Subparagraph (b)(2) revised to streamline process in Chapter 11 cases and allow for combined Employment Application and 21-day Objection Notice to parties on Service List.

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

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#### (b) 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 ~~section~~rule.

##### (2) Streamlined or “~~No Look~~ 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;  
~~and~~
- (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

Counsel may apply for additional fees if Counsel opted for the fee award process set out in subparagraph (b)(2) of this rule, but later determines that the Presumed Reasonable Fee ~~maximum 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 additional~~ the total fees sought by Counsel in the case or by an affidavit explaining why the ~~standard~~ Presumed Reasonable Fee ~~fee~~ is inadequate and describing the services rendered in the case. The Clerk shall provide notice of the total fees requested.

(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, ~~unless the Court orders otherwise~~, 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 ~~already performed unless authorized by the Court~~, 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 ~~other than the pre-petition retainer~~, 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.

Comments

Subparagraphs (b)(2) and (3) are amended to change the name of the "No Look Fee" to the "Presumed Reasonable Fee," to clarify that only one such fee is available in a Chapter 13 case, and that an application for supplemental fees should request only the amount in excess of the Presumed Reasonable Fee and provide records or an affidavit in support of the excess fees.

**B-3002.1-3. NOTICE OF AND RESPONSE TO FINAL CURE PAYMENT**

If the trustee or the Debtor files a Notice of Final Cure Payment under Fed.R.Bankr.P. 3002.1(f), a creditor shall file a Response to a Notice of Final Cure Payment that substantially complies with Directors' Bankruptcy Form 4100R. A Response to a Notice of Final Cure Payment shall include a copy of the payoff statement as defined by 12 C.F.R. § 1026.36(c)(3) and provide, as an attachment, the following information, as of the date of the response:

- (a) Date last payment received on the mortgage;
- (b) Date next post-petition payment due;
- (c) Amount of the next post-petition payment;
- (d) Unpaid principal of the loan;
- (e) Additional amounts due for any deferred or accrued interest;
- (f) Balance of the escrow account; and
- (g) Balance of unapplied funds or funds held in a suspense account.

Comments

The current rule B-3002.1-3 shall be renumbered B-3002.1-4 with the addition of this new rule, which proposes to require that mortgage lenders provide more detailed disclosures in response to a Notice of Final Cure Payment, by filing Director's Bankruptcy Form 4100R and an attachment.

**B-3002.1-34. MOTION FOR DETERMINATION OF FINAL CURE AND PAYMENT: HEARING DEEMED WAIVED**

If the trustee or the Debtor files a Motion for Determination of Final Cure and Payment under Fed.R.Bankr.P. 3002.1(h), and the holder of the claim has filed a response that agrees with the Notice of Final Cure Payment ~~or the holder of the claim files a Response to Notice of Final Cure Payment~~ that concurs in the Motion for Determination, the holder of the claim is deemed to have waived further notice and the Court may enter an order on the motion without hearing.

Comments

Rule renumbered from 3002.1-3 given the addition of the new rule titled Notice and Response to Final Cure Payment. Other edits are for style uniformity and clarity.

**B-3002.1-45. MOTIONS TO DEEM MORTGAGE CURRENT**

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Comments

Rule renumbered from 3002.1-4 given the addition of the new rule titled Notice and Response to Final Cure Payment.

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

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(b) Post-Confirmation Modifications

(1) Motion to Modify Plan

A proposed modification of a confirmed plan shall be filed as a Motion to Modify Plan, which shall set forth both the current and proposed new plan payment amounts. 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.

Comments

Subparagraph (b) revised as a result of Chapter 13 summit discussion to provide that a Motion to Modify Plan is to contain both the current and new plan payment amount. Further, if modification is sought by the Debtor based upon a change in income and/or expenses, or if the Debtor objects to the trustee's Motion to Modify, the Debtor shall file supplemental Schedules I and J.

**B-4001-1. MOTIONS FOR RELIEF FROM STAY AND MOTIONS 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, for adequate protection, or relief from the stay as to a co-debtor under 11 U.S.C. §1301 shall include the following if applicable:

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(2) Waiver of 30-Day ~~30-Day~~ Hearing Requirement

The motion may include a waiver of the 30-day hearing requirement in 11 U.S.C. §362(e), which ~~the~~ movant shall note that waiver in the motion's caption by including the statement "with 30-day waiver." Selection of the waiver option when filing the motion electronically also results in a waiver of the 30-day hearing requirement.

(3) Notice and Disposition

(A) Chapters 7, 12, and 13 ~~Waiver~~

Except in Chapter 11 cases, the ~~A~~ movant that consents to the waiver of the 30-day hearing requirement shall:

- (i) ~~distribute~~ serve a 14-day Objection ~~Notice of the motion to the Debtor, parties that have entered an appearance on the Service List, a trustee, any creditor asserting a lien on the same property, the UST, and a co-debtor in a Chapter 12 or 13 case, except as otherwise provided by~~ unless notice has been limited under S.D.Ind. B-2002-1(c) or (d);
- (ii) if the motion also seeks abandonment, distribute the notice to all creditors and parties in interest, unless notice has been limited under S.D. Ind. B-2002-1(c) or (d); and
- (iii) ~~file a copy of the motion and a Certificate of Service.~~

~~If no proper response to the motion is filed, t~~ The Court may grant relief from the stay without further notice or hearing if no response to the motion

is filed. At a hearing on the motion the Debtor or objecting party has the burden of establishing any payment(s) alleged to have been made but not set forth in the payment history.

(B) Chapter 11 Refusal to Waive

A movant that does not consent to the waiver of the 30-day hearing requirement shall~~In cases pending under Chapter 11, unless the Court has previously entered a case management order covering preparation and distribution of notices, movant shall:~~

- (i) ~~contact the courtroom deputy to discuss who will prepare and distribute the notice and obtain a hearing date, if needed~~ and to discuss who will prepare and distribute the notice;
- (i) ~~distribute the notice to the Debtor, parties that have entered an appearance, a creditors' committee or if no committee has been appointed, the twenty largest unsecured creditors, a trustee, and the UST;~~
- (ii) serve the notice on the Service List, a trustee, any creditor asserting a lien on the same property, and a co-debtor in a Chapter 12 or 13 case, unless notice has been limited under S.D.Ind. B-2002-1(c) or (d);
- (iii) ~~(ii)~~ if the motion also seeks abandonment, distribute the notice to all creditors and parties in interest, unless notice has been limited under S.D.Ind. B-2002-1(c) or (d); and
- (iv) file a Certificate of Service prior to the ~~Court setting a~~ scheduled hearing on the motion.

~~(4)~~ (3) Sample Form

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

(b) Extend or Impose the Stay

(1) Motion Filed 10 Days or Less after Petition Date

- (A) The Court shall set the motion for hearing, and issue notice of that hearing and the deadline for objections.
- (B) 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 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 sub~~paragraph~~section even if the tenth day after the petition 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.
- (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 ~~or extended~~.
- (D) The movant shall file a Certificate of Service on or before the hearing date.
- (E) The Debtor's attendance at the hearing may be required, even if no objection is filed.

(3) Contents of Motion to Impose the Stay

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

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

Comments

The title to and subparagraph (a) of the rule were amended to add motions for adequate protection. Subparagraphs (a)(3)(A)(i) and (B)(ii) were amended to provide for notice to other creditors asserting a lien in the subject property. Subparagraph (a)(2) is substantially amended to change the rule from a focus on chapter designation to one based on waiver of the right to a 30-day hearing under 11 U.S.C. § 362(e); former subparagraph (a)(3) was deleted. New subparagraph (b)(3) added to set forth requirements to be included within motion to extend or impose stay.

**B-4001-2. MOTIONS TO USE CASH COLLATERAL AND TO OBTAIN CREDIT**

(a) Contents of Motion to Use Cash Collateral

~~In addition to the requirements of Fed.R.Bankr.P. 4001(b)(1)(B),~~ A motions to use cash collateral shall also comply with the requirements of both Fed.R.Bankr.P. 4001(~~b~~)(1)(B) and Fed.R.Bankr.P. 4001(c)(1)(B) unless ~~otherwise directed by the Court~~ orders otherwise.

(b) Other Provisions to Be Disclosed

In addition to the provisions listed in Fed.R.Bankr.P. 4001(b)(1)(B) and (c)(1)(B), any motion to use cash collateral or motion to obtain credit (collectively “Financing Motions”) ~~must~~ shall also disclose the total dollar amount requested, an estimate of the value of the collateral which secures the creditor’s asserted interest, and disclose as a “material provision” any provision ~~of the type indicated below~~ that:

(1) Cross-Collateralization of Pre-Petition Debt

~~Provisions that grant~~ Grants cross-collateralization protection other than replacement liens or other adequate protection by: ←

- ~~(i) other than replacement liens or other adequate protection~~ (i) other than replacement liens or other adequate protection to the pre-petition secured creditor, i.e., clauses that securinge pre-petition debt by post-petition assets in which the secured creditor does not assert a valid, perfected security interest by virtue of its pre-petition security agreement or applicable non-bankruptcy law; ~~and~~
- ~~(ii) provisions that deem~~ (ii) provisions that deem pre-petition secured debt to be post-petition ~~debt~~ debt; ~~or~~
- ~~(iii) that use~~ (iii) that use post-petition loans from a pre-petition secured lender to pay all or part of that lender’s pre-petition claim, ~~other than as provided in 11 U.S.C. §552(b)~~;

(2) Professional Fee Provisions

~~Provisions that provide~~ Provides disparate different treatment for the professionals retained by a creditors’ committee from ~~that provided for the professionals retained by the Debtor with respect to a professional fee carve out (payment from a secured creditor’s collateral)~~;

(3) Priming of Existing Liens

~~Provisions that P~~ primes any secured lien without the consent of the lien holder ~~of that lien~~;

(4) Loan Documentation Costs

~~Provisions that C~~ alls for the payment of fees or costs by the Debtor other than reasonable attorney’s fees for loan documentation; and

(5) Plan Restrictions

~~Provisions that L~~ imits, restricts, or otherwise affects the terms of a proposed plan of reorganization.

(c) Summary of Essential Terms Proposed Budget

All Financing Motions ~~must~~ shall also set forth, ~~unless good cause is shown, the total dollar amount requested,~~ have attached as an exhibit the Debtor’s proposed budget for the use of

the funds, an estimate of the value of the collateral which secures the creditor's asserted interest, the maximum borrowing available on an interim and final basis, the borrowing conditions, interest rate, fees, costs or other expenses to be borne by the Debtor, maturity, limitations on the use of the funds, events of default, and the protections afforded under 11 U.S.C. §§363 and 364. The budget shall include, but not be limited to, a detailed 4-week cash flow projection for a motion for interim use of cash collateral and a detailed 13-week cash flow projection for a motion for final use of cash collateral, unless the Court orders otherwise.

(d) Interim Relief

When Financing Motions are filed as First Day Motions, the Court may grant interim relief pending review by the interested parties of the proposed arrangements. Such interim relief is intended to avoid immediate and irreparable harm to the estate pending a final hearing. Absent extraordinary circumstances, the Court may not enter interim orders that include any of the provisions identified in subparagraph (b) above, or any provision listed in Fed.R.Bankr.P. 4001(e)(1)(B)(ii)-(xi).

Comments

Required disclosures have been shuffled and the contents of a proposed budget added. Rather than specific budget items, minimum budget term lengths (4 weeks for interim use, 13 weeks for final use) were added to subparagraph (c). Other edits are primarily for style uniformity and clarity.

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

(a) Dollar Limits

(1) One Thousand Dollars (\$1,000~~2,500.00~~) or Less

The Debtor may incur non-emergency consumer debt up to ~~one thousand dollars (\$1,000~~2,500.00~~)~~, including the refinancing of real property debt, without the trustee's written approval ~~of the trustee or Court~~ order of the Court.

(2) Greater than One Thousand Dollars (\$1,000~~2,500.00~~)

The Debtor ~~must~~ shall seek the trustee's approval ~~of the trustee or an Court~~ order from the Court under subparagraphs (b) through (d) of this rule before incurring non-emergency consumer debt of more than ~~one thousand dollars (\$1,000~~2,500.00~~)~~ using the procedures set out in paragraphs (b) through (d) of this rule.

(b) Request Directed to Trustee

If the proposed debt is unsecured or to be secured by personal property, ~~the The Debtor's~~ shall first request approval to incur debt by written application shall first be made to the trustee. Such request shall not be filed with the Clerk. If approved by the trustee, the Debtor may incur the debt in accordance with the terms and conditions approved by the trustee. If the trustee has not directed use of a specific form, the application request shall include the following information:

(1) a statement in support of the feasibility of the request;



- (2) a description of the item to be purchased or the collateral affected by the credit to be obtained;
- (3) a description of the interest held by ~~any~~ an other entity in ~~any~~ collateral affected by the credit;
- (4) the reasons ~~for which~~ why the Debtor ~~has the needs~~ for the credit;
- (5) the terms of ~~any~~ the proposed financing ~~involved~~, including the interest rate; and
- (6) ~~a description of any method or proposal by which~~ the protection proposed for the interest held by ~~any~~ an other entity in the collateral ~~affected by the credit may be protected; and~~
- (7) ~~copies of all documents by which the interests of all entities in the collateral affected by the credit was created or perfected, or, if any of those documents are unavailable, the reason for the unavailability.~~

(c) ~~Filing Approved Request with the Court~~ Obtaining a Court Order

~~If the Debtor seeks an order from the Court on a request that has been approved by the trustee, the Debtor may file the approved request with the Court and provide an order. If the pleading is filed without documentation showing the trustee's approval, it will be treated as a Motion to Incur Debt filed under subparagraph (d). The trustee's approval can be documented by reference to same within the motion or by attaching a document signed by the trustee.~~

(1) When Required

The Debtor shall file a Motion to Incur Debt if:

- (i) the proposed debt is greater than \$2,500.00 and is to be secured by real estate;
- (ii) the Debtor's request under subparagraph (b) of this rule has not been approved by the trustee; or
- (iii) the Debtor seeks a Court order on a request that has been approved by the trustee.

(2) Contents

The motion shall include all the information required by subparagraph (b) of this rule. 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 monthly escrow for taxes and insurance, the monthly payment, and the maturity date. Unless the motion states or documents the trustee's approval, the Court shall give the trustee 14 days to object to the motion.

~~(d) Motion Directed to Court~~

~~If the proposed debt is greater than one thousand dollars (\$1,000.00) 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

The amount of non-emergency consumer debt that can be incurred without first seeking Court or Trustee approval is increased from \$1,000.00 to \$2,500.00. The contents of former subparagraph (d) have been incorporated into (c). Other edits are for style uniformity and clarity.

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

~~In a Chapter 13 case, the~~ The Debtor in a Chapter 13 case shall file a Motion to Modify Secured Debt to obtain approval of a modification of a debt secured by real estate that includes the following loan 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,~~ and the estimated total monthly payment, which shall include mortgage insurance, property insurance, and real estate taxes. A sample motion is available on the Court's website.

#### Comments

Rule revised to define the term "estimated total monthly payment."

### **B-4002-1. THE DEBTOR'S DUTIES**

#### (a) Notice to Other Tribunals

\*\*\*\*\*

#### (4) Sample Form Available

A sample notice is available on the Court's website ~~at [www.insb.uscourts.gov](http://www.insb.uscourts.gov).~~

#### (b) Notice to Garnishing Creditor and Garnishee Defendants

Immediately upon the entry of an order for relief, the Debtor shall give written notice to any creditor with a garnishment order, any garnishee defendant other than the Debtor's employer, and to any creditor whom the Debtor anticipates may seek a garnishment order.

#### ~~(c) Notice to Employer~~

~~If the Debtor has authorized deductions from the Debtor's employment compensation in repayment of an unsecured claim or if the Debtor's employment compensation is subject to an involuntary garnishment, then upon the entry of an order for relief, the Debtor shall notify the employer and the entity authorized to receive any voluntary deduction that such deduction shall cease as of the date of the entry of the order for relief. If the employer or the entity authorized to receive a voluntary deduction is notified orally, the Debtor shall send to the employer, within three (3) days thereafter, a written notice which includes copies of the petition and that portion of the schedules listing the creditor receiving the deductions. If the Debtor has authorized the deduction from the Debtor's compensation for repayment of a secured claim which the Debtor intends to reaffirm, or the withholding of income governed by 11 U.S.C. §362(b)(19), or if the Debtor's compensation is subject to garnishment for a debt not dischargeable pursuant to 11 U.S.C. §523(a)(5), then the Debtor may elect not to provide the notice required by this subsection.~~

~~(d)~~(c) Production of Business Records

In Chapter 13 cases, if a Debtor is engaged in business, as defined in 11 U.S.C. §1304, the Debtor ~~must~~ shall produce any documents concerning the business requested by the trustee at or before the meeting of creditors.

~~(e)~~(d) Additional Documents upon Request

\*\*\*\*\*

Comments

The deletion of the subparagraph (c) requirement that a debtor inform his or her employer or withholding entity of a bankruptcy filing does not suggest that the Committee takes the position that such notification is improper. Rather, the deletion is meant to reflect actual practice, as Committee members report that notice to an employer or withholding entity is selective, based upon the case type, the debt involved, and other factors.

**B-4003-2. LIEN AVOIDANCE MOTIONS UNDER §522**

(a) Requirements

A Debtor seeking to avoid a lien under 11 U.S.C. §522(f) shall file a separate motion as to each lien-holder. The motion shall identify:

(1) the petition date;

~~(1)~~(2) the value of the subject collateral;

~~(2)~~(3) the amount, listed separately, of all mortgages and other liens on the property which the Debtor will not seek to avoid, and a list of the liens on the property which the Debtor will seek to avoid;

~~(3)~~(4) the amount of the exemption to which the Debtor would be entitled but for the lien;

~~(4)~~(5) the lien to be avoided and its approximate amount;

~~(5)~~(6) if the motion seeks to avoid a judicial lien, the case number and the court where the underlying judgment was entered, the date of the judgment, and the common address and legal description of the real estate; and

~~(6)~~(7) if the motion seeks to avoid a nonpossessory, nonpurchase money security interest under 11 U.S.C. §522(f)(1)(B), the household goods subject to the security interest sought to be avoided and the date the debt that the lien secures was incurred.

\*\*\*\*\*

#### Comments

Subparagraph (a) amended to require that the motion include the petition date.

### **B-5005-4. ELECTRONIC FILING**

The Court has adopted Electronic Case Filing Administrative Policies and Procedures to permit the electronic filing, signing, service, and verification of documents ~~by electronic means~~. These Administrative Policies and Procedures, as described in the Manual available on the Court's website, are incorporated into this local rule.

#### Comments

Edits are for style uniformity and clarity.

### **B-5011-1. WITHDRAWAL OF REFERENCE**

#### (a) Form of Request; Place of Filing

A motion for withdrawal of a case or proceeding shall be filed in the Bankruptcy Court. ~~In addition, all such motions shall clearly and conspicuously state that "relief is sought from a U.S. District Judge."~~

#### (b) Recommendation by Bankruptcy Court

The Bankruptcy Court, ~~on its own motion,~~ may recommend to the District Court that a case or proceeding be withdrawn under 28 U.S.C. §157(d). Any such recommendation ~~must~~ shall be served on the parties to the case or proceeding ~~and forwarded to the Clerk of the District Court for assignment to and resolution by a District Judge.~~

#### (c) Stay

The filing of a motion, ~~to withdraw the reference or the Bankruptcy Court's recommendation,~~ to for withdrawal al the reference does not stay the proceedings in the Bankruptcy Court. Fed.R.Bankr.P. ~~8005~~ 5011(c) governs requests for a stay pending decision on withdrawal ~~of reference.~~

(d) Designation of Record

~~The~~ Along with the motion for withdrawal, the moving party movant shall ~~serve and file~~ file and serve, 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 ~~the~~ designation of ~~the~~ record, any other party may ~~serve and file~~ file and serve 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~~ marked-up copy of the docket or any portion thereof ~~will is~~ 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.

(e) Responses to Motions to for Withdrawal Reference; Reply

A party opposing the motion shall have 14 days after the movant serves the motion to file and serve its response. ~~Opposing parties shall file with the Clerk, and serve all parties to the matter, their written responses to the motion within fourteen (14) days after being served a copy of the motion. The moving party~~ movant may ~~serve and file~~ file and serve a reply within ~~fourteen~~ (14) days after service of a response.

(f) Transmittal of Record to District Court

~~When the record is complete~~ After the time for filing a response or reply has expired, but without awaiting the filing of any transcripts, the Clerk of the Bankruptcy Court shall ~~transmit to the Clerk of the District Court~~ the motion, any responses and replies, and the designated portions of the record ~~designated~~ to the Clerk of the District Court for docketing and the issuance of a District Court case number. ~~After the opening of the docket in the District Court, documents pertaining to the matter under review by the District Court shall be filed with the Clerk of the District Court.~~

(g) Filing of Documents After Transmittal

After the transmittal to the District Court described in subparagraph (f) of this Rule, documents pertaining to the motion for withdrawal under review by the District Court shall be filed with the Clerk of the District Court. Documents related to other matters in the bankruptcy case or adversary proceeding shall continue to be filed with the Clerk of the Bankruptcy Court, unless either Court orders otherwise. Parties shall advise both Courts of pleadings filed in either forum that affect matters pending in the other forum.

Comments

Subparagraph (f) revised and new subparagraph (g) added to clarify the timing of transmittal of the motion for withdrawal to the District Court and the place of filing after transmittal to the District Court. Other edits are for style uniformity and clarity.

## B-5071-1. CONTINUANCES

~~Unless otherwise ordered by the Court, all~~ A requests to continue a scheduled hearing, conference, or trial ~~must~~ shall be made by written motion, unless the Court orders otherwise. The motion ~~to continue shall indicate~~ state whether the opposing party consents to the continuance. If the movant has been unable to reach the opposing party, the motion shall ~~recite what~~ state the efforts ~~were~~ made to contact the opposing party.

### Comments

Edits are for style uniformity and clarity.

## B-5080-31. DEFERRAL OF FILING FEES DUE FROM TRUSTEE

~~In~~ The Clerk shall defer the filing fee in an adversary proceeding, if the trustee certifies ~~to the Clerk that the estate lacks the funds necessary to pay a filing fee, the Clerk shall defer the filing fee without Court order and enter the deferral on the docket.~~ If the estate later receives funds ~~sufficient to pay the deferred fees,~~ the trustee shall pay the fee no later than the date the trustee makes distribution to creditors.

### Comments

Edits are for style uniformity and clarity.

## B-6004-1. SALE OF ASSETS OUTSIDE THE ORDINARY COURSE PURSUANT TO UNDER 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~~ under 11 U.S.C. §363 (the “Motion to Sell”), ~~including motions filed by a trustee or a Debtor.~~ This rule, and S.D.Ind. B-6004-2 through B-6004-~~5~~4, do not apply to sales proposed as part of a Chapter 11 plan.

### (b) Employment and Compensation of Professionals

~~Except as otherwise permitted by Local Rule 6004-3, the~~ The movant shall file a separate application to employ, and a separate application to compensate, any broker, auctioneer, or other professional to be retained to assist with any sale. The retention of liquidators, auctioneers, and appraisers is also governed by ~~Local Rule~~ S.D.Ind. B-6005-1. No payment shall be made to any professional before the Court has entered an order approving compensation and reimbursement of expenses.

### (c) Sale of Co-Owned Property

~~Before filing a Motion to Sell~~ A party proposing to sell co-owned property, ~~the party proposing the sale shall comply~~ satisfy the requirements of with S.D.Ind. B-7001-2.

(d) Procedure; Contents of Motion; Notice

~~Unless otherwise ordered, any~~ A Motion to Sell shall follow the procedures outlined in and provide the information required by Local Rules comply with S.D.Ind. B-6004-2 through B-6004-5, depending on the type of sale, unless the Court orders otherwise.

Comments

Subparagraph (b) reference to LR 6004-3 removed given deletion of entire rule. Other edits are to capture the renumbering of LR 6004-5 and for style uniformity and clarity.

**B-6004-2. PRIVATE SALE**

(a) “Private Sale” Defined

~~For the purpose of this rule, a~~ A “private sale” is defined as a sale to a specific entity on terms that are fixed at the time the Motion to Sell is filed, with no consideration of competing bids ~~contemplated.~~

(b) Contents of Motion: All Chapters

Any Motion to Sell by private sale shall have attached a copy of the agreement and identify:

- (1) the property to be sold;
- (2) the prospective purchaser (“Prospective Purchaser”);
- (3) the sales price and an estimate of the net proceeds to be received by the estate, 2 (including a deduction for any exemption);
- (4) a brief summary of all material contingencies to the sale, ~~together with a copy of the agreement, if available;~~
- (5) a description of the manner in which the property was marketed for sale, and a description of any other offer to purchase;
- (6) a description of any ~~known~~ relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;
- (7) a statement setting forth any relationship or connection the trustee or the Debtor ~~(including or its insiders)~~ will have with the Prospective Purchaser or its insiders after ~~the sale~~ consummation of the sale, assuming it is approved;
- (8) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and
- (9) ~~the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to~~ under 11 U.S.C. § 363(f), the names of the lien or interest holders.

(c) Contents of Motion: Additional Requirements in Chapter 11 Cases

Any Motion to Sell by private sale in a Chapter 11 case that proposes the sale of all or substantially all of the Debtor's assets shall include, in addition to the requirements in subparagraph (b) of this rule, and the following:

~~if schedules have not been filed by the Debtor,~~ a summary of the Debtor's debt structure, including the amount of the Debtor's secured debt, priority claims, and general unsecured claims; and,

~~(1)~~

~~(2) if a creditors' committee, or its equivalent, existed pre-petition, the identity of the members of the committee and the companies with which they are affiliated and the identity of any counsel.~~

(d) Notice

(1) Distribution; Contents; Certificate of Service Generally

~~Unless otherwise ordered by the Court, the~~ The movant shall distribute notice of any hearing or ~~of any~~ deadline to object to a Motion to Sell, as determined by subparagraphs ~~(d)(2) and (3) below~~ of this rule, unless the Court orders otherwise. The notice shall contain all of the information required by subparagraphs (b) and (c) of this rule. The movant shall file a ~~certificate~~ Certificate of ~~service~~ Service that ~~complies with S.D.Ind. B-9013-2. The motion, notice, and certificate~~ Certificate of ~~service~~ Service may be combined into one document. ~~A, a sample combined Motion to Sell, Notice, and Certificate of Service~~ of which is available on the Court's website.

(2) Chapter 7, 12, and 13 Cases

~~Unless the Court by separate order shortens the notice period,~~ In a Chapter 7, Chapter 12, or Chapter 13 case, the movant shall ~~distribute notice that provides twenty one (21) day~~ provide a 21-day Objection Notice of the Motion to Sell, ~~s after the date of service for objections to be filed~~ unless the Court orders otherwise.

(3) Chapter 11 Case

In a Chapter 11 case, the movant shall contact the courtroom deputy to obtain direction as to whether the Court desires a notice with opportunity to object to the Motion to Sell or a hearing notice ~~of the hearing date.~~ The movant shall distribute the notice and file a ~~certificate~~ Certificate of ~~service~~ Service.

(e) Report of Sale

No later than ~~fourteen (14) days~~ after a private sale has been completed, the movant shall file a report of sale ~~pursuant to~~ under Fed.R.Bankr.P. 6004(f)(1).



## Comments

Former subparagraph (c)(2) is deleted as unnecessary. Other edits are for style uniformity and clarity.

### ~~B-6004-3. PRIVATE SALE BY AGENT~~

~~(a) “Private Sale by Agent” Defined~~

~~A “private sale by agent” is defined as the sale by the trustee or Debtor of estate property other than real estate using an agent that is in the business of selling such property in a “commercially reasonable manner” that would satisfy Indiana Code §26-1-9.1-610. At the time approval of the sale is sought, the trustee or Debtor has not identified the purchaser or the exact purchase price.~~

~~(b) Contents of Motion~~

~~Any Motion to Sell by private sale using an agent shall identify:~~

- ~~(1) the property to be sold;~~
- ~~(2) information to support the determination that the agent is in the business of selling similar property in a commercially reasonable manner;~~
- ~~(3) the amount of any exemption claimed in the property;~~
- ~~(4) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and~~
- ~~(5) the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to 11 U.S.C. §363(f).~~

~~(c) Combining Retention and Compensation of Agent with Motion~~

~~The trustee or Debtor may combine a request to retain and to compensate the agent with the Motion to Sell. Any such request shall provide the information required by Fed.R.Bankr.P. 2014, describe how compensation will be determined, and estimate the fees to be paid.~~

~~(d) Notice~~

~~Unless the Court by separate order shortens the notice period, the movant shall distribute notice that provides twenty one (21) days after the date of service for objections to be filed. The notice shall include a description of the property to be sold; the name of and contact information for the agent; the proposed terms of compensation for the agent, if proposed retention has not been noticed separately; and the location of the property prior to sale. The movant shall also file 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 Sell, Notice, and Certificate of Service is available on the Court’s website.~~

(e) Report of Sale

No later than fourteen (14) days after a private sale by agent has been completed, the movant shall file a report of sale pursuant to Fed.R.Bankr.P. 6004(f)(1). If retention and compensation of the agent were authorized by the order granting the Motion to Sell, pursuant to subparagraph (e), the report of sale shall include the amount of compensation actually paid to the agent.

Comments

Entire rule dropped due to infrequent use by trustees and misuse by other filers.

**B-6004-43. SALE BY AUCTION**

(a) “Sale by Auction” Defined

A “sale by auction” is any sale by public auction, with no previously identified initial bidder.

(b) Contents of Motion

Any Motion to Sell by auction shall identify:

- (1) the property to be sold;
- (2) the amount of a claimed exemption in the property;
- (3) the name and contact information for the entity conducting the auction;
- (4) the date, time, and place of the sale, if known, or instruction on how that information can be obtained;
- (5) any bid procedures proposed for the sale, ~~even if those bid procedures were previously disclosed in an application to employ an auctioneer;~~
- (6) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and
- (7) ~~the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to~~ under 11 U.S.C. § 363(f), the names of the lien or interest holders.

(c) Notice

~~Unless the Court by separate order shortens the notice period, the~~ The movant shall ~~distribute~~ provide a 21-day Objection Notice of the Motion to Sell, unless the Court orders otherwise notice that provides twenty one (21) days after the date of service for objections to be filed. The notice shall provide the information required by subparagraph (b) of this rule. The movant shall also file a ~~certificate~~ Certificate of service ~~Service~~ that complies with ~~S.D.Ind. B-9013-2~~. The motion, notice, and ~~certificate~~ Certificate of service Service may

be combined into one document. ~~A, a sample combined Motion to Sell, Notice, and Certificate of Service of which~~ is available on the Court's website.

(d) Report of Sale

~~Unless otherwise ordered by the Court, no~~ No later than ~~fourteen (14)~~ days after an auction, the auctioneer or the party that filed the application to employ the auctioneer shall file the report ~~pursuant to~~ under Fed.R.Bankr.P. 6004(f)(1), unless the Court orders otherwise.

Comments

Rule renumbered from 6004-4 to 6004-3 given the deletion of former rule 6004-3. Subparagraph (b)(2) added to require disclosure of claimed exemption amounts. Other edits are for style uniformity and clarity.

**B-6004-54. SALE WITH PROSPECTIVE PURCHASER IDENTIFIED BUT BIDS CONSIDERED**

(a) “Sale with Prospective Purchaser Identified but Bids Considered” Defined

A “sale with prospective purchaser identified but bids considered” is also known as a “sale with a stalking horse bidder,” and is a proposed sale to a specific entity for a set price, with competitive bids to be considered.

(b) Contents of Motion to Sell with Bid Procedures

~~Any~~ Motion to Sell to a prospective purchaser but with bids considered shall identify or include:

- (1) the property to be sold;
- (2) the prospective purchaser (“Prospective Purchaser”);
- (3) the sales price and an estimate of the net proceeds to be received by the estate, (including a deduction for any exemption);
- (4) a brief summary of all material contingencies to the sale, together with a copy of the agreement, if available;
- (5) ~~the names of the lien or interest holders to the extent such names are known, if the proposed sale seeks to sell property free and clear of liens or other interests pursuant to~~ under 11 U.S.C. § 363(f), the names of the lien or interest holders;
- (6) the executory contracts and leases proposed to be assumed or rejected as part of the sale, if any;
- (7) a description of the manner in which the property was marketed for sale, and a description of ~~any other~~ purchase offers ~~to purchase~~;
- (8) a description of any ~~known~~ relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;

- (9) a statement setting forth any relationship or connection the trustee or the Debtor (~~including~~or its insiders) will have with the Prospective Purchaser after the consummation of the sale, ~~assuming it is approved~~;
- (10) if a ~~topping free or break-up~~ fee is proposed to be paid to the Prospective Purchaser ~~if~~and another bidder prevails at the sale, a statement of the conditions under which the ~~topping fee or break-up~~ fee would be payable and the factual basis on which the seller determined the provision ~~was~~is reasonable;
- (11) the identities of any other entity that expressed to the movant an interest in the purchase of all or a material portion of the assets to be sold within ~~ninety~~(90) days prior to the filing of the sale motion, the offers made by them, ~~(if any)~~, and the nature of the offer;
- (12) the bid procedures proposed for the sale;
- (13) a disclosure if the property to be sold contains personally identifiable information and, if so, the measures that will be taken to comply with 11 U.S.C. §363(b)(1); and
- (14) if the case is pending under Chapter 11, and proposes the sale of all or substantially all of the Debtor's assets, the following:
  - (A) if schedules have not been filed by the Debtor, a summary of the Debtor's debt structure, including the amount of the Debtor's secured debt, priority claim, and general unsecured claims; and
  - (B) if a creditors' committee, or its equivalent, existed pre-petition, the identity of the members of the committee and the companies with which they are affiliated and the identity of any counsel.

(c) Notice of Motion to Sell and to Approve Bid Procedures

The movant shall prepare, for Court review, a notice of the Motion to Sell and of the proposed bid procedures that contains the information required by ~~subsection~~subparagraph (b) of this rule. The movant shall provide a 21-day Objection Notice of the Motion to Sell ~~or If the Court directs a notice of the opportunity to object, the notice shall provide twenty-one (21) days after the date of service for objections to be filed, unless the Court by separate order has shortened the notice period. T~~he Court may instead direct the issuance of a hearing notice and will provide the movant with a hearing date and time and any objection deadline, ~~if any~~, that shall be included in the notice. Upon distribution of the notice, the movant shall ~~also file a certificate~~Certificate of service Service that complies with S.D.Ind. B-9013-2.

(d) Order Establishing Bid Procedures and Notice of Sale Hearing

Upon expiration of the objection period or upon conclusion of a hearing on the proposed bid procedures, the movant shall provide the Court with an Order Establishing Bid Procedures and Notice of Sale Hearing. The order shall include the bid procedures; the date, time, and place where bids will be considered; the date, time, and place of the hearing to approve the sale; and ~~the~~any deadline, ~~if any~~, by which parties ~~must~~shall object to the

proposed sale. Upon entry of the order, the movant shall make distribution and shall also file a ~~certificate~~ Certificate of service ~~Service~~ that complies with S.D.Ind. B-9013-2.

(e) Order Approving Sale

(1) Sale to Prospective Purchaser

If the Prospective Purchaser prevails at the sale, then the Court shall enter an order approving that sale.

(2) Sale to Different Entity: No Change in Terms Except Price

If a sale ~~pursuant to~~ under this rule results in a sale to a party other than the identified Prospective Purchaser, with no change in terms other than the purchase price, then at the hearing on approval of the sale the movant shall identify the successful purchaser and the change in price, and shall make ~~any~~ request for approval of a ~~topping or break-up fee~~ to the Prospective Purchaser if one was disclosed in the Motion to Sell. The Court shall enter an order approving that sale.

(3) Sale to Different Entity with Change in Terms

If a sale ~~pursuant to~~ under this rule results in a sale to a party other than the identified Prospective Purchaser, and the terms of that sale other than price have changed, including but not limited to the proposed assumption or rejection of leases and contracts, then the movant shall identify the successful purchaser and the change in terms and shall make ~~any~~ request for approval of a ~~topping or break-up fee~~ if one was disclosed in the Motion to Sell. The Court shall consider whether the change in terms requires additional notice to parties who may be affected by those changes. If no additional notice is required, the Court shall enter an order approving the sale. If additional notice is required, the Court shall enter the order approving the sale only after such additional notice period.

(f) Report of Sale

No later than ~~fourteen~~ (14) days after a sale ~~pursuant to~~ under this rule has been completed, the movant shall file a report of sale ~~pursuant to~~ under Fed.R.Bankr.P. 6004(f)(1).

Comments

Rule renumbered from 6004-5 to 6004-4 given the deletion of former rule 6004-3. Other edits are for style uniformity and clarity.

**B-6005-1. LIQUIDATORS/ AND AUCTIONEERS ~~AND APPRAISERS~~**

(a) Bond Required

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

(b) Disclosures

An application to employ a liquidator/auctioneer shall:

- (1) contain an affirmative statement that the liquidator/auctioneer sought to be employed by a trustee or Debtor is bonded; and
- (2) disclose the name of the bonding company.

~~(b)~~(c) Remittance of Gross Proceeds

~~Unless otherwise ordered by the Court, all~~ All gross proceeds shall be remitted to the trustee or ~~the~~ Debtor within ~~fourteen (14) days of the sale.~~, unless the Court orders otherwise unless otherwise ordered by the Court. Upon motion of ~~any a~~ 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) 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.

Comments

Requirement that bond be obtained "with the UST on behalf of the United States of America" deleted from subparagraph (a). Subparagraph (b) added to provide for statement that auctioneer is bonded and disclosure of name of bonding company. Former subparagraph (c) deleted as unnecessary. Other edits are for style uniformity and clarity.

**B-6006-1. ASSUMPTION, REJECTION, OR ASSIGNMENT OF EXECUTORY CONTRACTS OR UNEXPIRED LEASES: NOTICE**

(a) Assumption, Rejection, or Assignment

A party seeking to assume, reject, or assign an executory contract or unexpired lease shall ~~give~~ provide a 14-day ~~objection N~~ notice of the motion. ~~Notice shall be given to the parties identified in Fed.R.Bankr.P. 6006(c) as well as to any sublessee. The notice shall allow fourteen (14) days from the date of service to file objections. Along with the motion, the moving party~~ movant shall file a copy of the notice and a ~~certificate~~ Certificate of service. ~~Service~~ Service that complies with S.D.Ind. B-9013-2. The motion, notice, and ~~certificate~~ Certificate of service Service may be combined into one document. ~~A, a sample combined motion for assumption or rejection or assignment, notice, and certificate of service of~~ which is available on the Court's website.

(b) Compelling Assumption or Rejection

A party seeking to compel the trustee or the Debtor to assume assumption or reject rejection of an executory contract or lease shall ~~give~~ provide a 14-day ~~Objection notice~~ Notice of the motion. ~~Notice shall be given to the Debtor, any trustee, counsel of record, the United States Trustee~~ UST, any other party to the contract or lease, and any sublessee identified on the Debtor's schedules. ~~The notice shall give fourteen (14) days from the date of service to file objections.~~ Along with the motion, the moving party movant shall file a copy of the notice and certificate Certificate of service Service that complies with ~~S.D.Ind. B-9013-2~~. The motion, notice, and certificate Certificate of service Service may be combined into one document. ~~A, a sample combined motion to compel assumption or rejection, notice, and certificate of service~~ of which is available on the Court's website.

Comments

Edits are for style uniformity and clarity.

**B-6007-1. ABANDONMENT OF PROPERTY**

(a) ~~Notice Procedure in Chapter 7 Cases~~ Trustee Abandonment in Chapter 7 Cases

(1) Abandonment by Trustee by Filing Report of No Distribution

(A) Language in Meeting of Creditors Notice

(i) Report of No Distribution as Notice of Proposed Abandonment

The §341 ~~meeting~~ of Creditors notice for a Chapter 7 case ("Meeting Notice") shall inform ~~creditors and other parties in interest~~ the UST, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code that the trustee's filing of a report of no distribution shall serve as a notice of proposed abandonment ~~pursuant to~~ under Fed.R.Bankr.P. 6007 of all property of the estate listed on the Debtor's schedules ("Listed Scheduled Property"). The Meeting Notice shall also provide that no further notice of abandonment will be given unless a creditor or other party in interest files a request for notice ("Requesting Party") no later than one day before the first date set for the Meeting of Creditors. The Clerk shall provide a 14-day Objection Notice of the trustee's report of no distribution to a Requesting Party.

(ii) Obtaining Notice of Report of No Distribution

~~The §341 meeting notice shall also provide that no further notice to creditors and other parties in interest is required for the abandonment of any property to become effective fourteen (14) days after the filing of the report of no distribution unless a party in interest, no later than one (1) day before the first date set for the §341 meeting, files a request for further notice of abandonment.~~

(B) Request for Notice

If a party files a request for notice pursuant to subparagraph (a)(1)(A)(ii) of this rule, then if the trustee files a report of no distribution, the Clerk shall give notice of that filing to the requesting party. That notice shall give the requesting party fourteen (14) days from the service of the notice to object to the abandonment. If the request for notice was filed by an attorney participating in the Court's CM/ECF system, then the notice of electronic filing generated at the time the report of no distribution was filed is sufficient.

(2) Notation of Abandonment on Docket

Fourteen (14) days after the trustee's filing of a report of no distribution, or if a party has requested notice of the filing of the report of no distribution, then fourteen (14) days after that notice, if no objection to the proposed abandonment is filed, the The Clerk shall note on the case docket that pursuant to this local rule all Listed Scheduled Property is deemed abandoned if no objection to the proposed abandonment is filed within the time provided under subparagraph (a)(1) of this rule.

(3) Trustee's Notice of Possible Assets and Abandonment

In a Chapter 7 case where the trustee files a notice of possible assets and abandonment, the The Clerk shall give notice of the filing of a trustee's notice of possible assets and abandonment to all the UST, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code creditors and parties in interest. The notice shall identifying those assets which are not being abandoned by the trustee; and of the proposed abandonment of all other Listed Scheduled Property.

(4) Trustee's Abandonment After Report of Possible Assets

The trustee shall provide a 14-day Objection Notice of In a Chapter 7 case where the trustee files a notice of abandonment filed more than one day after the filing of a notice of possible assets to the UST, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code more than one (1) day after filing a notice of possible assets, the trustee shall distribute the notice to parties in interest and all creditors, except as otherwise provided in S.D.Ind. B-2002-1(b). The notice shall allow fourteen (14) days from the date of service to file objections. Along with the notice, the trustee shall file a certificate Certificate of service Service. that complies with S.D.Ind. B-9013-2. A sample notice is available on the Court's website.

(5) Motion to Abandon Filed by Party in Interest

A motion to abandon in a Chapter 7 case filed by any party other than the trustee shall comply with subparagraph (b) of this rule.

(b) Notice-Motion to Abandon; Notice Procedure in All Other Chapters

A motion to abandon filed by a party in interest shall be served on the Debtor and parties in interest. The movant shall provide a 14-day Objection Notice of the motion shall be distributed of a motion to abandon to the Debtor, parties in interest, and all creditors on the



trustee or debtor-in-possession, the UST, all creditors, indenture trustees, and committees elected pursuant to § 705 or appointed pursuant to § 1102 of the Code, except as otherwise provided by S.D.Ind. B-2002-1(b). The notice shall allow fourteen (14) days from the date of service to file objections. Along with the motion, the moving party movant shall file a copy of the notice and a certificate Certificate of service 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 of which A sample notice is available on the Court's website.

### Comments

Rule amended to include notice recipients as set forth within current FRBP 6007(a) and proposed FRBP 6007(a) (projected effective date of December 1, 2019). Committee decides to incorporate FRBP 6007(a) proposed changes into this local rule. Other edits are for style uniformity and clarity.

## **B-6008-1. REDEMPTION OF PROPERTY**

### (a) Service

The Debtor shall serve ~~the a~~ motion to redeem and provide a 21-day eObjection notice-Notice thereof on the lien holder, in accordance with Fed.R.Bankr.P. 9014(b) and 7004. The notice shall allow at least twenty one (21) days from the date of service to file objections. Along with the motion, the Debtor shall file a copy of the notice and a Certificate of Service. The motion and notice may be combined in one document. ~~A sample combined motion and notice,~~ a sample of which is available on the Court's website.

### (b) Filing and Certificate of Service

~~Along with the motion, the Debtor must file with the Court a copy of the notice and a certificate of service that complies with S.D.Ind. B-9013-2.~~

### Comments

Edits are for style uniformity and clarity.

## **B-7001-1. ADVERSARY PROCEEDING COVER SHEET**

### (a) Cover Sheet Required

A party filing an adversary proceeding non-electronically shall also file a cover sheet using Official Form 1040 and provide the addresses of all defendants. Failure to ~~provide~~ file the adversary proceeding cover sheet and to provide addresses of all defendants may result in dismissal of the complaint.

### (b) Addresses for Defendants Required

~~A plaintiff filing an adversary proceeding without counsel is required to provide the addresses of all defendants, to facilitate service of the summons by the Clerk.~~

Comments

Edits are for style uniformity and clarity.

**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 under Fed.R.Bankr.P. 7001(3) 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 under 11 U.S.C. §363 and ~~Local Rules~~ S.D.Ind. B-6004-1 through 6004-~~5~~4, 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

Edits are for style uniformity and clarity.

**B-7005-2. FILING OF DISCOVERY MATERIALS**

Discovery materials (~~whether discovery requests, responses, or deposition transcripts~~) may ~~shall~~ not be filed with the Court except in the following circumstances as follows:

(a) Relevant to Certain Motions

A party seeking relief under Fed. R. Civ. P. 26(c) or 37, or by way of a pretrial motion that could result in a final order on an issue, ~~must~~ shall file with the motion those parts of the discovery materials relevant to the motion.

(b) ~~For~~ Anticipated Use at Trial

When a party ~~can reasonably anticipate~~ s using discovery materials at trial, the party ~~must~~ shall file the relevant portions at the start of the trial.

(c) Materials Necessary for Appeal

A party seeking for purposes of appeal to supplement the record with discovery materials not previously filed may do so by ~~stipulation~~ agreement of the parties or by Court order approving the filing.

Comments

Edits are for style uniformity and clarity.

**B-7006-1. EXTENSIONS OF TIME**

(a) Initial Extensions

~~In every adversary proceeding pending in this Court in which~~ A party in an adversary proceeding that wishes to obtain an initial extension of time not exceeding ~~twenty-eight~~ (28) days within which to file a responsive pleading, ~~or a response to a written~~ discovery request for discovery or request for admission, or a response to a motion, ~~the party shall~~ contact counsel for the opposing party, or if the opposing party is not represented by counsel, the opposing party, and ~~solicit~~ request that person's agreement to the extension. In the event that person does not object to the extension or cannot ~~with due diligence~~ be reached, the requesting party ~~requesting the extension~~ shall file a notice with the Court reciting the lack of objection to the extension or the fact that the person could not ~~with due diligence~~ be reached. The notice shall state the original due date and the date to which the time is extended. No further filings with ~~the Court~~ nor action by the Court shall be required for the extension.

\*\*\*\*\*

Comments

Edits are for style uniformity and clarity.

**B-7016-1. PRE-TRIAL PROCEDURES IN ADVERSARY PROCEEDINGS**

(a) Use of Pre-Trial ~~or Pre-Hearing~~ Conferences

The Court may, at its discretion, conduct a pre-trial ~~or a pre-hearing~~ conference in any adversary proceeding, ~~at the Court's discretion~~, upon notice to parties in interest.

(b) Applicability of S.D.Ind. L.R. 16-1

The Court may determine on its own motion or on the request of ~~any party in interest~~ which provisions of S.D.Ind. L.R. 16-1 shall apply to an adversary proceeding ~~governed by Fed.R.Bankr.P. 7001, et seq.~~

~~(c) Telephonic Pre-Hearing or Pre-Trial Conference~~

~~No later than twenty four (24) hours before the time scheduled for a pre-hearing or pre-trial conference, any party to the conference may request that the conference be conducted by telephone or that the party be allowed to participate by telephone. Such request may be~~

~~made in writing, directed to chambers, or by telephone. At the time of the request, the requesting party shall advise the Court whether any other party to the conference has objected to the request. The request may be granted or denied at the sole discretion of the Court.~~

#### Comments

Subparagraph (c) is deleted as the judges each have their own approach. Other edits are for style uniformity and clarity.

### **B-7026-2. FORM OF CERTAIN DISCOVERY DOCUMENTS**

#### (a) Form of Discovery Requests

A party ~~propounding~~ servicing ~~written~~ discovery under Fed.R.-Civ.P. 33, 34, or 36 ~~must~~ shall number each interrogatory or request sequentially and supply the ~~written~~ discovery to the responding party in an editable word processing format.

#### (b) Form of Discovery Responses

A party responding (by answer or objection) to ~~written~~ discovery ~~must fully~~ shall quote each interrogatory or request ~~immediately~~ before each response and number each response to correspond with the interrogatory or request.

#### Comments

Edits are for style uniformity and clarity.

### **B-7030-1. CONDUCT OF DEPOSITIONS**

#### (a) Questions About an Asserted Privilege

~~An attorney~~ Counsel may question a deponent who refuses to answer a question on the basis of privilege about information related to the appropriateness of the privilege, including whether:

- (1) the privilege applies under the circumstances;
- (2) the privilege has been waived; or
- (3) circumstances exist to overcome a claim of qualified privilege.

#### (b) Private Conference Regarding a Pending Question

~~A~~ Counsel for a deponent's ~~attorney~~ may not initiate a private conference with the deponent during the deposition about a pending question except to determine whether to assert a claim of privilege.

(c) Raising Objections with the Court

A party may recess a deposition to submit an objection by phone to a ~~judicial officer~~ Judge if the objection:

- (1) could cause the deposition to be terminated; and
- (2) can be resolved without submitting written materials to the Court.

(d) Scheduling Depositions

~~Attorneys will~~ Counsel shall make a good faith effort to schedule depositions in a manner that avoids scheduling conflicts. ~~Unless agreed by counsel or otherwise ordered by the Court, n~~ No deposition will be scheduled on less than fourteen (14) days' notice unless agreed by counsel or the Court orders otherwise.

Comments

Edits are for style uniformity and clarity.

## **B-7036-1. REQUESTS FOR ADMISSIONS**

~~No~~ A party may serve ~~on any other party~~ no more than ~~twenty-five (25)~~ requests for admission on another party without leave of Court. Requests relating to the authenticity or genuineness of documents are not subject to this limitation. ~~Any party desiring~~ seeking to serve additional requests for admission ~~must~~ shall file a written motion setting forth the proposed ~~additional~~ requests ~~for admission~~ and the reason(s) for their use.

Comments

Edits are for style uniformity and clarity.

## **B-7037-1. DISCOVERY DISPUTES**

(a) Required Actions Prior to Court Involvement

~~Prior to involving the Court in any discovery dispute, including disputes involving depositions, counsel~~ Counsel must shall confer in a good faith attempt to resolve ~~the any~~ discovery dispute prior to involving the Court. If ~~any such~~ dispute cannot be resolved ~~in this manner~~, counsel ~~are encouraged to~~ may contact the chambers of the assigned Judge to determine whether the Judge is available to resolve the discovery dispute by ~~way of a~~ telephone conference or other proceeding prior to ~~counsel the~~ filing of a formal discovery motion. When the dispute involves an objection raised during a deposition that threatens to prevent completion of the deposition, any party may recess the deposition to contact the Judge's chambers.

(b) Requirements of Motion to Compel

~~In the event that~~ If the discovery dispute is not resolved at the conference, counsel may file a motion to compel ~~or other motion raising the dispute~~. ~~Any~~ A motion raising a discovery dispute ~~must~~ shall contain a statement setting forth the efforts taken to resolve the dispute,

including the date, time, and place of any discovery conference and the names of all participating parties. The Court may deny ~~any~~ a motion raising a discovery dispute that does not contain such a statement.

- (c) Pro Se Parties

\*\*\*\*\*

Comments

Edits are for style uniformity and clarity.

**B-7041-1. DISMISSAL FOR FAILURE TO PROSECUTE**

The Court may dismiss an adversary proceeding if:

- (a) the plaintiff has not taken any action for six (6) months;
- (b) the Judge ~~assigned to the case or~~ has directed and the Clerk has given notice to the parties that the case will be dismissed for failure to prosecute it; and
- (c) at least ~~twenty-eight (28)~~ days have passed since the notice was given.

Comments

Edits are for style uniformity and clarity.

**B-7041-2. COMPLAINTS TO DENY OR REVOKE DISCHARGE: DISMISSAL OR SETTLEMENT**

- (a) Contents and Service of Notice of, Motion for, or Stipulation Regarding Voluntary Dismissal of Complaint to Deny or Revoke Discharge

The proposed dismissal, whether by notice, motion, or stipulation, of a complaint to deny or revoke the Debtor's discharge under 11 U.S.C. §727, shall be served upon the UST, a trustee, counsel of record in both the bankruptcy case and the adversary proceeding, and a party that has intervened in the adversary proceeding under Fed.R.Bankr.P. 7024. The notice, motion, or stipulation shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of an agreement concerning the dismissal.

\*\*\*\*\*

Comments

Subparagraph(a) amended to clarify counsel to be notified of the dismissal of a discharge complaint. Other edits are for style uniformity and clarity.

## B-7055-1. DEFAULT

### (a) Application for Entry of Default

A party seeking an entry of default from the Clerk pursuant to ~~under~~ Fed.R.Bankr.P. 7055(a) ~~must~~ shall file an application seeking ~~such~~ relief. ~~Such~~ The application ~~must~~ shall be accompanied by an affidavit ~~indicating~~ stating that the defendant ~~(s)~~ has failed to plead or otherwise defend and that the defendant ~~(s)~~ is not protected by the Servicemembers Civil Relief Act of 2003 and is not a minor or incompetent person.

### (b) Motions for Default Judgment

Notwithstanding Fed.R.Bankr.P. 7055(b)(1), a party seeking a default judgment shall present a motion to the Judge, rather than to the Clerk, and shall also tender a proposed judgment. If the claim to which no response was made is for a “sum certain,” then the motion shall be accompanied by an affidavit showing the principal amount due and owing, not exceeding the amount sought in the claim, plus any interest computed by the movant, with credit for all payments received to date clearly set forth, and any costs pursuant to ~~under~~ 28 U.S.C. §1920. ~~If the amount of the claim is not readily ascertainable or if the amount requested in the motion exceeds the amount stated in the claim, the~~ The Court may conduct a hearing on the motion for default judgment.

### (c) Certificate of Service

Both the application for entry of default and motion for default judgment must be accompanied by a ~~certificate~~ Certificate of service Service that complies with S.D.Ind. B-9013-2.

### Comments

Edits are for style uniformity and clarity.

## B-7056-1. SUMMARY JUDGMENT PROCEDURE

### (a) Movant’s Obligations

A party seeking summary judgment ~~must~~ shall file and serve a supporting brief and ~~any evidence (that is not already in the record)~~ any affidavits and other materials referred to in Fed.R.Civ.P. 56(c)(1) that the party movant relies on to support the motion. ~~Unless otherwise ordered by the Court, t~~ The supporting brief shall be no more than ~~thirty five (35) pages, unless the Court orders otherwise.~~ The brief ~~must~~ shall include a section labeled “Statement of Material Facts Not in Dispute” ~~containing~~ that lists the facts:

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

### (b) Non-Movant’s Obligations

A party opposing a summary judgment motion ~~must~~ shall, within ~~twenty eight (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) any evidence (that is not already in the record) that the party relies on to oppose the motion. Unless otherwise ordered by the Court, the response brief shall be no more than thirty five (35) pages, unless the Court orders otherwise.~~ The response ~~must~~ shall include a section labeled “Statement of Material Facts in Dispute” that identifies the potentially determinative facts and factual disputes that the party contends demonstrate a dispute of fact precluding summary judgment.

(c) Reply

The movant may file and serve a reply brief within ~~fourteen (14)~~ days after a response is served. ~~Unless otherwise ordered by the Court, the reply brief shall be no more than twenty (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 ~~must~~ shall be filed and served within ~~seven (7)~~ days after the movant serves the reply and ~~must~~ shall be limited to the new evidence and objections.

(e) Citations to Supporting Facts

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

(f) Oral Argument or Hearing

~~Unless a party has requested a hearing, the Court may decide a summary judgment motions 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 ~~must~~ shall serve that party with a notice that:

- (1) briefly and plainly states that a fact stated in the ~~moving party~~ 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; and
- (3) ~~otherwise complies with applicable case law regarding required notice to pro se litigants opposing summary judgment motions.~~



(h) Compliance

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

Comments

Edits are for style uniformity and clarity.

**B-7065-2. MOTIONS FOR PRELIMINARY INJUNCTIONS AND TEMPORARY RESTRAINING ORDERS**

(a) Adversary Proceeding Required

~~Prior to submitting a~~ A motion for a temporary restraining order or ~~for a preliminary injunction,~~ shall be preceded by an adversary proceeding ~~shall be initiated by the filing of a complaint pursuant to~~ under Fed.R.Bankr.P. 7001(7).

(b) Motion for Temporary Restraining Order or for Preliminary Injunction

A motion for a temporary restraining order or ~~for preliminary injunction~~ shall be ~~made by a document~~ filed separately ly from the complaint and shall be accompanied by a brief in support of the motion and a declaration or affidavit by the movant or counsel for the movant showing compliance with Fed.R.Bankr.P. 7065 regarding notice to opposing parties.

(1) ~~— a separate memorandum in support of the motion;~~

(2) ~~— a declaration or affidavit by the movant or counsel for the movant showing compliance with Fed.R.Bankr.P. 7065 regarding notice to opposing parties; and~~

(3) ~~— a copy of the filed complaint.~~

(c) Proposed Order ~~Notice~~

~~Along with the motion for temporary restraining order or preliminary injunction, the movant shall upload an appropriate proposed order.~~ If notice is provided to a defendant under Fed.R.Bankr.P. 7065, the movant shall serve a copy of the motion, supporting brief, declaration or affidavit, and a copy of the complaint, and shall file a Certificate of Service.

Comments

Subparagraph (c) is revised to provide that the movant serve a copy of the adversary proceeding complaint upon defendants. Other edits are for style uniformity and clarity.

**B-7067-1. REGISTRY FUNDS**

(a) Interpleader and Other Deposit Motions: Contents

Any action in interpleader or that seeks to deposit funds with the Clerk ~~pursuant to~~ under Fed.R.Bankr.P. 7067 shall include the filer's certification that the proposed deposit has

been discussed with the Clerk or the Clerk's financial supervisor and that the filer understands the terms and conditions that will be imposed upon the deposit.

(b) Fees Charged Against Deposits

The Clerk or its agents shall deduct from income earned on registry funds invested in interest-bearing accounts or instruments a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office of the U.S. Courts ~~in accordance with the schedule which shall be~~ according to and published ~~periodically by the Director in the Federal Register.~~ Funds deposited with the Court ~~pursuant to~~ under 11 U.S.C. §347(a) are not subject to this rule.

Comments

Edits are for style uniformity and clarity.

**B-7069-1. EXECUTION/ AND ENFORCEMENT OF JUDGMENTS**

(a) Availability of Enforcement Remedies

A trustee or a Debtor who seeks to enforce a judgment in an adversary proceeding or an order of turnover for the benefit of the bankruptcy estate may pursue collection in the Bankruptcy Court. The order of turnover ~~must~~ shall be for a sum certain or direct turnover of specific ~~tangible~~ property.

(b) Applicability of District Court Rules

S.D.Ind. L.R. 69-1 (Execution), S.D.Ind. L.R. 69-2 (Interrogatories to Garnishees), and S.D.Ind. L.R. 69-3 (Final Orders in Wage Garnishment) apply to adversary proceedings and to orders directing a Debtor to turn over property. Answers to Interrogatories ~~should not be filed with the Court but~~ should be sent to the trustee or the Debtor only and should not be filed with the Court.

Comments

Edits are for style uniformity and clarity.

**B-80068009-1. RECORD ON APPEAL**

(a) 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 numbers and document title as displayed on the docket. A ~~marked-up~~ marked-up copy of the docket or any portion thereof will not be accepted as a proper designation.

(b) Transcripts

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~~ shall not be included in the designation of the record.

~~(b)~~ (c) Failure to Designate Record on Appeal

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

Comments

The rule number is amended to comport with the Uniform Numbering System for Local Bankruptcy Court Rules. Other edits are for style uniformity and clarity.

~~**B-9006-2. PRESUMPTIVE OBJECTION PERIOD IN CHAPTER 11 CASES**~~

~~In a Chapter 11 case, when the Court opts to set an objection period on a motion or application rather than a set a hearing, if no other time period is set by the Federal Rules of Bankruptcy Procedure or these local rules, objections shall be filed within twenty one (21) days from the service of the motion or application. The Court on its own or on the motion of a party, filed pursuant to L.R. B-9006-1, may shorten the time period for objection.~~

Comments

Rule to be deleted as unnecessary.

**B-9010-1. APPEARANCES**

(a) ~~Appearances~~ Initial Filing Constitutes Appearance: 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 document filed a case for a Debtor ~~using~~ using the Court's electronic filing system, with the exception of a proof of claim, a reaffirmation agreement, a request under Fed.R.Bankr.P. 2002(g), or a creditor change of address, and is designated as counsel for the Debtor in that process need not file a separate appearance for that case constitutes an appearance by the attorney for the party on whose behalf the document is filed.~~

~~(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 Form

~~The~~ An attorney whose appearance has not been previously established under subparagraph (a) of this rule may file an appearance that shall include the attorney's name, 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

Rule revised to eliminate the requirement for a separate appearance form when otherwise filing a pleading on a party's behalf. Other edits are for style uniformity and clarity.

## **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 ~~substituted~~-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 ~~must~~-shall also be filed. If the attorney being replaced is unavailable to sign the substitution of appearance, the ~~substituted~~-new attorney or the Debtor shall include an affidavit stating the reasons for the unavailability.

(b) Notice-Motion to of Withdrawal: Exceptions

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

- (1) when another attorney remains attorney of record for the party; or
- (2) when the party has no controversy pending before the Court.

~~Otherwise, a motion to withdraw is required.~~

(c) Motion to Withdraw: Requirements

~~When a~~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~~7 ~~days~~s ~~(7)~~ 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~~identifies the details of that hearing, conference, or deadline; and
- (3) ~~provide~~ the party's last known telephone number.

(d) Service

A Substitutions~~substitution~~ of appearance, and motions 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) Effect of Failure to Comply

The original attorney remains the party's attorney of record ~~U~~until compliance with subparagraph (a), (b), or (c) of this rule, as applicable, ~~and~~ subparagraph (d) of this rule, 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

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

Comments

Subparagraph (a) amended to replace "substituted attorney" with "new attorney" to minimize confusion. Other edits are for style uniformity and clarity.

### **B-9010-3. BAR ADMISSION**

(a) Bar of the Court

The bar of this Court ~~shall~~sconsist of those persons admitted to practice in the Southern District of Indiana and under subparagraph (c) of this rule. The Rules of Professional Conduct, as adopted by the Indiana Supreme Court, and the District Court's Local Rules of Disciplinary Enforcement, govern the conduct of those practicing in this Court.

(b) Exceptions

~~(d)~~ In all matters and proceedings before this Court, a A person not a member of the bar of the Southern District of Indiana shall not be permitted to practice ~~in this Court or before any officer thereof as an attorney~~, unless such person:

- ~~(1)~~ ~~such person~~ appears on his or her own behalf as a party;
- ~~(2)~~ ~~such person~~ is admitted to practice in any other United States Court or the highest court of any state, is not currently under suspension or subject to other disciplinary action, and is, on motion to this Court ~~pursuant to~~ under subparagraph (c) of this rule, granted leave to appear in a specific action; ~~or~~
- ~~(3)~~ ~~such person~~ appears as an attorney for the United States; or
- ~~(4)~~ files a document as to which an appearance is not required under S.D. Ind. B-9010(a)(4).

~~However, for the purposes of filing any document as to which an appearance is not required under S.D. Ind B-9010-1(a)(1) or participating in a meeting conducted pursuant to 11 U.S.C. §341, a creditor need not be represented or appear by an attorney.~~

(c) Pro Hac Vice

~~(e)~~ ~~In order~~ An attorney seeking leave to appear in a specific action shall ~~to obtain leave of this Court to appear in a specific action, the attorney seeking to be admitted must file with the Court a~~ file a Motion to Appear *Pro Hac Vice*. A separate motion, ~~for each attorney shall be filed, shall be in a form that complies substantially with the form available on the Court's website, and shall be~~ shall be filed for each attorney seeking admission under this subparagraph and be accompanied by:

- ~~(1)~~ if not admitted to practice in the State of Indiana, an affidavit that substantially complies with the form available on the Court's website; and
- ~~(2)~~ a proposed ~~form of order~~ granting the motion.

~~(d)~~ ~~The Court may refuse to consider or act upon any request for relief filed by an attorney who is required to obtain leave to appear and has failed to do so.~~

~~(e)~~ ~~Whenever necessary to facilitate the conduct of the case, the Court may require any attorney appearing in any action in this Court to retain as local counsel a member of the bar of the South District of Indiana who maintains an office in this district.~~

~~(f)~~ ~~The Rules of Professional Conduct, as adopted by the Indiana Supreme Court, shall provide the rules governing conduct for those practicing in this Court.~~

Comments

Edits are for style uniformity and clarity.

## B-9013-1. MOTION PRACTICE; OBJECTIONS TO MOTIONS

### (a) Separate Motions and Objections

Every application, motion, or other request for an order from the Court, including motions initiating contested matters, shall be filed separately, except that requests for alternative relief may be filed together, subject to subparagraphs (b) and (c) of this rule. All ~~such~~ requests shall be named in the caption, ~~shall state with particularity the order or relief sought, and contain a short and plain statement concerning of the factual basis or grounds for the motion.~~ If the alternative relief requested has varying requirements for notice, the notice ~~must~~ shall provide the longest of the alternative periods. Objections to separately filed motions ~~must~~ shall also be filed separately.

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### ~~(e) Duty to Confer~~

~~If a motion is contested, the movant shall confer with the respondent prior to the hearing to determine whether a consent order may be entered disposing of the motion, or in the alternative, to stipulate on as many facts and issues as possible.~~

Comments

Subparagraph (e) dropped as unnecessary. Other edits are for style uniformity and clarity.

## B-9013-2. CERTIFICATE OF SERVICE

### (a) Filing

All pleadings and documents filed in a bankruptcy case ~~pursuant to~~ under Fed.R.Bankr.P. 9013 or 9014 shall comply with Fed.R.Civ.P. 5(d).

### (b) Requirements

In addition to identifying the pleading or document served, certificates of service shall conform substantially to the ~~certificate~~ Certificate of ~~service~~ Service form adopted with the Administrative Policies and Procedures Manual and available on the Court's website.

### (c) Failure to Comply

On its own motion, the Court may refuse consideration of or strike any pleading or document ~~for which a certificate of service has not been filed or which lacks the information required by the Court's forms~~ fails to comply with subparagraphs (a) or (b) of this rule.

Comments

Edits are for style uniformity and clarity.

## B-9013-3. FIRST DAY MOTIONS IN CHAPTER 11 CASES

### (a) Motions Included

~~In order to~~ qualify as a First Day Motion, the motion ~~must~~ shall be filed with the Chapter 11 petition, or within ~~two (2)~~ days thereafter, state in its caption that it is a First Day Motion, and be one of the motions included ~~on the list below~~ within subparagraph (f) of this rule. ~~The First Day Motions listed in subparagraph (f) below shall be scheduled for an expedited hearing without any formal request by the Debtor. Other motions will only be set for hearing on an expedited basis if accompanied by a request for expedited hearing which establishes sufficient cause for such treatment.~~ All other requests for expedited treatment shall comply with S.D.Ind. B-9006-1.

(b) Procedure Prior to Filing

Prior to filing, the Debtor shall attempt to confer with and provide copies of any First Day Motions to the UST. ~~Counsel~~ The Debtor shall include in any First Day Motion, or in a separate pleading, a statement of efforts made to meet with the UST and affected parties prior to filing when possible. The Debtor shall also contact the ~~courtroom deputy for the Chief Judge~~ Clerk or Chief Deputy to advise that a case with First Day Motions will be filed.

(c) Procedure upon Filing

Upon filing, the Debtor shall contact the courtroom deputy for the Judge assigned. The Judge assigned, or a designated replacement, shall schedule and conduct a hearing on the First Day Motions within ~~two (2)~~ days of their filing, if possible, unless the Debtor requests a later hearing date.

(d) Service of First Day Motions and Notice

The Debtor shall serve copies of all First Day Motions and notice of the hearing on the initial Service List, known counsel for a party, and named ~~respondents~~ parties in interest. Notice of the hearing and copies of the First Day Motions shall be served by fax, e-mail, hand, or overnight ~~mail~~ delivery. If the documents are more than 3 pages in length, the movant may fax the first page of the motion with a statement as to the total number of pages in the document and instructions for obtaining all documents on the movant's website or by e-mail. Prior to the hearing, the Debtor shall file a Certificate of Service. Failure to give timely notice may result in relief being denied or the hearing continued.

(e) Contents of Notice

The notice of hearing on the First Day Motions shall provide:

- (1) the date and time of the hearing;
- (2) a list by title of the First Day Motions; and
- (3) the ~~correct~~ mailing address, fax number, telephone number, and e-mail address of the Debtor's counsel.

(f) List of Included Motions



The following motions shall be treated by the Court as First Day Motions if filed with the petition or within ~~two~~(2) days thereafter:

- (1) ~~motion for~~ joint administration;
- (2) ~~motion for~~ use of cash collateral (interim hearing only) (~~see~~under S.D.Ind. B-4001-2);
- (3) ~~motion for~~ post-petition financing (interim hearing only) (~~see~~under S.D.Ind. B-4001-2);
- (4) ~~motion to~~ pay pre-petition employee wage claims (to the limit provided by 11 U.S.C. §507);
- (5) ~~motion to~~ limit notice generally;
- (6) ~~motion to~~ provide adequate assurance to utilities;
- (7) ~~motion to~~ pay pre-petition trust fund taxes;
- (8) ~~motion to~~ honor pre-petition obligations to customers (to the limit provided by 11 U.S.C. §507);
- (9) ~~motion to~~ vary UST financial requirements, such as motion to authorize maintenance of existing bank accounts, existing business forms, cash management system, investment procedures, etc.;
- (10) ~~motion for~~ authority to pay pre-petition claims of alleged critical vendors;
- (11) ~~motion to~~ reject leases and contracts;
- (12) ~~motion to~~ not appoint a creditors' committee ~~pursuant to~~under 11 U.S.C. §1102(a)(3); and
- (13) ~~a Prepackaged Scheduling Motion~~seeking expedited scheduling of the confirmation hearing (~~see~~under S.D.Ind. B-2081-2).

### Comments

Edits are for style uniformity and clarity.

## **B-9014-1. APPLICABILITY OF ADVERSARY PROCEEDING RULES TO CONTESTED MATTERS**

~~Unless otherwise ordered by the Court, t~~The following ~~adversary proceeding~~local rules apply in contested matters other than motions to dismiss or convert a case, unless the Court orders otherwise:

7026-2 Filing of Discovery Materials  
7030-1 Depositions  
7036-1 Requests for Admissions

Comments

Edits are for style uniformity and clarity.

**B-9015-1. JURY TRIALS**

(a) Authorization

Pursuant to Under S.D.Ind. L.R. 39-1, the District Court has authorized the Bankruptcy Judges of this District to conduct jury trials with the express consent of all parties.

(b) Form of Demand

(1) A demand for trial by jury, where permitted by Fed.R.Civ.P. 38, shall be filed with a party's first pleading or within 30 days of the filing of a notice of removal, whichever is earlier, and shall include the demand in the title by way of a notation placed on the front page of the pleading, immediately following the title of the pleading, stating "Demand for Jury Trial."

(2) Any notation on an adversary cover sheet filed under S.D.Ind. B-7001-1 shall not constitute a demand for trial by jury under this rule.

(3) The demand may specify the issues which the party wishes to be tried to a jury; otherwise the party shall be deemed to have demanded to have all issues tried by jury.

(c) Consent

A demand for trial by jury shall state whether the party making the demand consents to the Bankruptcy Judge conducting the jury trial. Within 30 days of the demand, any adverse party shall file a statement stating its consent or a lack of consent to the Bankruptcy Judge conducting the jury trial. The statement may be included in the party's responsive pleading or filed separately.

(d) Waiver and Withdrawal

The failure of a party to serve and file a demand as required by this rule constitutes a waiver by the party of trial by jury. A demand for trial by jury may be withdrawn at any time.

(e) Determination of Right

On its own motion or upon the motion of a party, the Court shall determine, as early as practicable, whether the demand for trial by jury is proper and whether the party has a right to a jury trial and, if so, as to which issues. If there is no consent, the Court may direct a party to file a motion to withdraw the reference.

~~(b)~~(f) Applicability of District Court Local Rules

The following District Court local rules concerning jury trials apply unless ~~otherwise ordered by the Court~~ orders otherwise:

- ~~38-1~~ Notation of a jury demand in a pleading
- 47-1 Voir dire
- 47-2 Communication with jurors
- 47-3 Juror costs
- 47-4 Jury; unanimous verdict

~~(e)~~(g) Time for Consent~~No Right Created~~

Unless within thirty (30) days after the demand for jury trial is filed the other parties to the proceeding file a consent, the Bankruptcy Judge shall request that the District Court ~~withdraw the reference of the matter. Even if all parties consent, the Bankruptcy Judge will determine whether the request for a jury trial is proper.~~ This rule does not expand or create any right to trial by jury where the right does not otherwise exist.

Comments

The rule has been amended to clarify how a demand for jury trial must be made and to make clear that the Court may address, early in the litigation, whether a right to trial by jury exists. Other edits are for style uniformity and clarity.

## B-9016-1. SUBPOENAS

If a subpoena to produce or permit inspection is to be served upon a nonparty, a copy of the proposed subpoena ~~must~~ shall be served on all other parties at least ~~seven (7)~~ days prior to service of the subpoena on the nonparty, unless the parties agree to a different time frame or the case management plan provides otherwise. ~~Provided, however, that if such subpoena relates to a matter set for hearing within such seven (7) day period or arises out of an bona fide emergency, such the subpoena may be served upon a nonparty one (1) day after a notice and copy of the subpoena is served on each party.~~

Comments

Edits are for style uniformity and clarity.

## B-9019-1. STIPULATIONS AND SETTLEMENTS

(a) Notice

~~(1)~~ When a Hearing Has Been Set

~~When parties reach a settlement in a matter that has been set for hearing, the parties shall promptly advise the Court of the settlement and, within the time promised or as required by the Court, shall file the appropriate pleadings and any proposed order concerning the settlement. The Court may extend the time for filing upon request. Failure to file the settlement pleading may result in dismissal of the matter at issue.~~

~~(2)~~ Objection Deadline

When approval of a settlement or compromise is required by Fed.R.Bankr.P. 9019, the parties to the agreement shall file a motion to approve the settlement in the bankruptcy case. One of the parties to the agreement shall provide a 21-day Objection~~serve Notice on~~ to the Debtor, creditors, any trustee, and the UST, ~~in accordance with Fed.R.Bankr.P. 2002~~ and to any other entity as the Court may direct. ~~The notice shall allow twenty one (21) days from the date of service to file objections to the settlement.~~ The movant shall file a copy of 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.

~~(3)~~ Filing; Certificate of Service

The moving party 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 combination motion, notice, and certificate of service is available on the Court's website).~~ If no proper objection is filed, the Court may approve the settlement without further notice or hearing.

(b) Adversary Proceedings

~~(1)~~ Generally

~~Except as set forth in subparagraph (b) (3) of this rule, if an adversary proceeding is settled before an answer has been filed, the parties may file a stipulation of dismissal. No Court order is entered on that stipulation. However, if the agreement of the parties resulting in dismissal contains conditions precedent or subsequent, then the parties shall file an agreed consent to judgment. The Court shall enter a separate order on that consent to judgment, after notice, if required.~~

~~(2)~~(1) Settlements Under Fed.R.Bankr.P. 9019(a) or (b)

When approval of a settlement or compromise is required by Fed.R.Bankr.P. 9019(a) or (b), the trustee or the debtor-in-possession shall file a motion to approve the settlement in the bankruptcy case and shall serve notice. The trustee or the debtor-in-possession shall file a copy of the notice and a ~~certificate~~ Certificate of service Service that complies with S.D.Ind. B-9013-2. Once the motion is granted, the parties to the adversary proceeding shall ~~then~~ dismiss the adversary proceeding or file an agreed consent to judgment so that the adversary may be closed.

~~(3)~~(2) Settlements of Complaints to Deny or Revoke Discharge

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Comments

Procedure streamlined through deletion of subparagraphs (a)(1), (a)(3) and (b)(1); former subparagraph (a)(2) restated as subparagraph (a). Other edits are for style uniformity and clarity.

## B-9019-2. ALTERNATIVE DISPUTE RESOLUTION

### (a) Scope of the Rule

~~The alternative dispute resolution method governed by T~~ this rule is governs mediation. This rule does not preclude the parties Parties from may agreeing to the use of any other reasonable method of alternative dispute resolution. However, ~~any~~ use of arbitration by the parties will be is governed by 28 U.S.C. §§654-647657.

### (b) Applicability of the Rule

This rule applies to all contested matters and adversary proceedings ~~pending before a Bankruptcy Judge of this district.~~

### (c) Referral to Mediation: Process

#### (1) Motion to Refer to Mediation Party Request~~Party Request~~

##### (A) Written Request

Any party may file a ~~motion~~ Motion to refer Refer a matter Matter to mediation Mediation (“Motion to Refer to Mediation”). ~~–~~ If a party’s ~~files a Motion to Refer to Mediation and certifies~~ in the motion that all parties to the matter consent to mediation and have been served with the motion, and the Court ~~finds~~ the motion to be appropriate under the circumstances, the Court may enter an order referring the matter to mediation without further notice or hearing. If a motion does not ~~so~~ certify the consent of all parties, the motion shall be set for hearing. ~~The Bankruptcy Judge may decide not to grant a motion to refer a particular matter to mediation if the Court determines that the motion was filed to delay the case or proceeding or if the matter involved is not likely to be resolved by mediation, given the issue or the parties involved.~~

##### (B) Oral Request

Any party may request referral to mediation at any hearing or conference if all other parties are present.

#### (2) Court’s Proposal~~Court’s Proposal to Referral to Mediation~~

##### (A) Court’s Notice of Status Conference to Discuss Mediation

The Court may propose to refer a matter to mediation ~~on its own by setting a status conference to consider the referral. At the status conference, the parties can oppose the referral or indicate consent. After the hearing, the Court may enter an order referring the matter to mediation.~~ at any time all parties are appearing before the Court.

##### (B) Court’s Proposal During Other Scheduled Hearing or Status Conference

~~The Court may propose referral to mediation at any other hearing or status conference. The parties can oppose referral, indicate consent, or request a separate~~

status conference on the proposal. ~~The Court may enter an order referring the matter to mediation or may set a status conference for a later date.~~

(3) Order Directing Mediation

~~If the Judge Court determines that mediation is appropriate, the Judge it shall enter an order referring a matter to mediation, and that order triggers the timing set forth in the subparagraphs below. If the parties have agreed upon a mediator at the time of referral, the order referring the matter to mediation may also appoint the mediator.~~

(d) Jurisdiction and Pendency of Matter: Deadlines and Discovery

~~At all times d~~During the course of mediation, the matter remains under the jurisdiction of the Judge ~~Court~~ to whom the matter is assigned. Referral to mediation does not abate or suspend any deadlines the matter. As to discovery matters, absent Court order or the agreement of the parties, no scheduled dates shall be deferred or delayed. Whenever possible, ~~p~~Parties are encouraged to may limit discovery to the development of information needed to facilitate mediation.

(e) Selection of the Mediator

(1) Selection by Agreement

~~Any person may be selected to serve as a mediator. Parties are encouraged to consider those appearing~~ may select any person to serve as mediator but are encouraged to consider those listed on the Court's list of mediators maintained by the Clerk, ~~but may select any person to serve~~ Mediator Panel, available on the Court's website. If a mediator was not appointed in the order referring the matter to mediation, p The Notice of Selection of Mediator ~~arties shall have~~ may be filed at any time but no later than 14 days after the order referring the matter to mediation. to file the Notice of Selection of Mediator. If a proposed mediator has been agreed upon by the parties, then within fourteen (14) days after the order referring the matter to mediation, the parties shall file a Notice of Selection of Mediator. The notice shall designate the mediator's name and contact information of the proposed mediator. The 14 day selection This time period may be extended upon motion of by any party.

(2) Selection of Candidates by the Court

~~If the parties cannot agree on a mediator within fourteen (14) days after entry of the order referring the matter to mediation, or if the parties elect to request the Court to name a panel for their consideration before expiration of the fourteen (14) day period, a party to the mediation shall file a Motion to Select a Panel of Mediator Candidates. The fourteen (14) day selection period may be extended upon motion of either party to the matter. The Court will issue a Notice of Designation of Mediator Candidates which designates three (3) potential mediators. Each side, alternately, shall strike the name of one (1) mediator. The side initiating the controversy will strike first, and shall do so no later than three (3) days after the filing of the Notice of Designation of Mediator Candidates. The parties shall complete the striking process within seven (7) days of the Court's designation and~~

shall file a Notice of Selection of Mediator ~~with the Court~~. During the striking process, the parties can agree on a mediator ~~other than~~ and that mediator is not required to be one named on the panel of candidates. If a party fails to strike from the list when required to do so, then the first name on the list that has not previously been stricken is deemed stricken by the ~~that~~ party with the duty to strike. The other party then exercises its right to strike or, if only one name remains, files the Notice of Selection of Mediator.

(3) Affidavit

A person ~~proposed~~ selected for selection as a mediator shall prepare an affidavit disclosing any connections with the parties or counsel involved with the controversy which in any way could affect the neutrality or impartiality of the mediator and setting forth any other reason which could result in disqualification under subparagraph (e)(~~2~~6) of this rule. The affidavit shall summarize the anticipated rate of compensation and terms of payment ~~of the proposed mediator~~. The affidavit shall be filed no later than ~~seven~~ (7) days after the notice specified in subparagraphs (e)(1) and (2) of this rule. The time ~~period~~ for filing the affidavit ~~can~~ may be extended upon motion of any party ~~to the matter~~.

(4) Qualification and Immunity

A mediator becomes qualified upon the filing of the affidavit required by subparagraph (e)(~~5~~3) of this rule. To the extent permitted under applicable law, a qualified mediator shall have immunity in the same manner and to the same extent as would a duly appointed Judge.

(5) Replacement of Mediator

If ~~at any time~~ the mediator is disqualified or ~~opts not to continue to serve~~ withdraws, the parties may agree upon another mediator and file the appropriate notice, or they may request that the Court designate a panel of candidates pursuant to subparagraph (e)(2) of this rule.

(6) ~~Disqualification~~ Withdrawal or Disqualification

~~Any person selected to serve as a mediator shall disqualify himself or herself from the matter if impartiality might reasonably be questioned. A mediator~~ may withdraw from service at any time by filing a notice of withdrawal. A mediator is also subject to the disqualification rules found in 28 U.S.C. §455. A party ~~that reasonably believes the mediator should be disqualified~~ may file a Request for Disqualification of Mediator.

(f) Filing by Mediator

A mediator is not required to be authorized to file electronically. If the mediator does not have the ability to file documents electronically, the mediator may submit documents to the Judge's chambers and chambers staff will ensure docketing.

~~(f)~~ (g) Compensation

~~Unless otherwise agreed by the parties or ordered by the Court, T~~the compensation and costs of the mediation shall be borne equally by the parties unless otherwise agreed or ordered by the Court to the mediation. If one of the parties is a trustee or debtor-in-possession, the amount of compensation to be paid by that party shall be treated as an administrative expense and paid by the estate. The mediator shall file a motion for payment of administrative expense, unless compensation was set in the Order Directing Mediation.

~~(g)~~(h) The Mediation

(1) Control of the Mediation

The mediator shall control all procedural aspects of the mediation, including but not limited to:

- (A) setting dates, times, and places for conducting sessions of the mediation;
- (B) requiring the submission of confidential statements;
- (C) requiring the attendance of representatives of each party with sufficient authority to negotiate and settle all disputed issues and amounts;
- (D) designing and conducting the mediation sessions; and
- (E) establishing a deadline for the parties to act upon a settlement proposal.

(2) Termination of the Mediation by Mediator

The mediator may terminate the mediation whenever the mediator believes that continuation of the process would harm or prejudice one or more of the parties; whenever the ability or willingness of any party to participate meaningfully in the mediation is so lacking that a reasonable agreement is unlikely; or whenever the mediator determines that continuing the mediation process would be ~~futile~~ unsuccessful.

(3) Termination of the Mediation by a Party

Parties are required to appear for mediation and to participate in good faith. ~~However, parties are not compelled to reach an agreement.~~ Either party may withdraw from the mediation if the party determines that continuing the mediation would be ~~futile~~ unsuccessful.

(4) Conclusion of the Mediation

- (A) If the mediation results in a ~~full~~ settlement of the contested matter or adversary proceeding, the mediator or the party who requested the mediation shall within ~~seven~~ (7) days of the conclusion of the mediation file a Report of Mediation ~~so advising the Court~~. Within a reasonable time thereafter, the parties shall submit to the Court an agreed entry, agreed consent to judgment, stipulation of dismissal, and/or motion for approval of compromise or settlement and provide such notice as is required by the



Federal Rules of Bankruptcy Procedure or as the Court may direct. If mediation results in a partial settlement, such that a motion to compromise and settle is not required ~~appropriate~~, the parties shall ~~may~~ file a notice of submission of any appropriate stipulation Report to Court.

(B) If the mediation is terminated or does not result in a settlement, and the mediator, after appropriate consultation with the parties and their counsel, is reasonably satisfied that no further mediation effort is ~~feasible~~ will be successful at that time, then the mediator or the party who initiated the mediation shall file a Report of Mediation with the Court, serving all parties to the controversy, that states only that the mediation was concluded without a settlement.

(5) Release of Mediator

Upon the filing of the ~~report~~ Report of Mediation under subparagraph ~~(g)~~(4) of this rule, the mediation shall be deemed concluded and the mediator shall be relieved of all further duties or responsibilities.

~~(h)~~(i) Confidentiality

(1) Protection of Information Disclosed at Mediation

Any written or oral communication made during ~~the course of any process or proceeding covered under this rule~~ mediation is confidential unless otherwise agreed by the parties. The unauthorized disclosure of confidential communication by any person may result in the imposition of sanctions pursuant to subparagraph ~~(i)~~ of this rule. In addition, without limiting the foregoing, Rule 408 of the Federal Rules of Evidence and any applicable federal or state statute, rule, common law, or judicial precedent relating to the privileged nature of settlement discussions, mediation, or other alternative dispute resolution procedure shall apply. Information otherwise discoverable or admissible in evidence, however, does not become exempt from discovery or admission, ~~or inadmissible in evidence, merely by being used by a party because of its use~~ in mediation. If the Judge Court so orders, the mediator's report on the parties' participation, to assist the Judge Court in determining if the parties participated in the mediation in good faith, shall not be considered a violation of these confidentiality requirements.

(2) No Discovery from Mediator

The mediator shall not be compelled to disclose to the Court or to any person outside the mediation conference any ~~of the records, reports, summaries, notes, communications, or other documents~~ information received or made distributed by a mediator while serving in such capacity. The mediator shall not testify or be compelled to testify ~~in regard to the mediation in connection with any arbitral, judicial, or~~ concerning the mediation in any other proceeding. The mediator shall not be a necessary party in any proceeding relating to the mediation.

(3) Protection of Proprietary Information

The parties, the mediator, and all mediation participants shall protect proprietary information during and after the mediation.

(4) Preservation of Privileges

The disclosure by a party of privileged information to the mediator or to another party during the mediation process does not waive or otherwise adversely affect the privileged nature of the information.

~~(j)~~ Sanctions

Upon motion by any party, the Court may impose sanctions against any person who fails to comply with this rule.

Comments

Procedure streamlined. Other edits are for style uniformity and clarity.

**B-9022-1. NOTICE OF ENTRY OF JUDGMENT**

~~(e)~~ Notice to Other Parties

~~The Clerk shall give notice in paper form to contesting parties who have not consented, or are not permitted to consent, to electronic service.~~

Comments

Subparagraph (c) deleted as unnecessary.

**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) 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~~ 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.)

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

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Comments

Edits are for style uniformity and clarity.

**B-9029-1. LOCAL RULES: GENERAL**

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- (a) Title and Citation

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- ~~(b)~~ Effective Date

~~These rules become effective on June 1, 2010.~~

- ~~(c)~~ (b) Scope of Rules

These rules shall govern all bankruptcy cases and proceedings pending or commenced in the Southern District of Indiana ~~on or after that date.~~

- ~~(d)~~ (c) Relationship to Prior Rules; Actions Pending on Effective Date

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- ~~(e)~~ (d) Modification or Suspension of Rules

In individual cases or proceedings, the Court, upon its own motion ~~or the motion of any party,~~ may suspend or modify any of these rules if the interests of justice so require.

- ~~(f)~~ (e) Conflicts Between S.D.Ind. L.R., Local, and National Bankruptcy Rules

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Comments

Edits are for style uniformity and clarity.

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

- (a) Proper CM/ECF Events for Addressing Unredacted Personal Identifiers 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) ~~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.~~ file a Motion to Redact a Previously Filed Document that identifies the proposed redactions;

~~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.~~

- (2) include within the motion the docket or claim number of the previously filed document; and

- ~~(2)~~(3) serve the motion and attachments on the Service List, the filer of the previously filed document (the "Original Filer"), and any individual whose personal identifying information is to be redacted.

- ~~(3)~~ The event Motion to Restrict Access is intended for use with requests pursuant to under 11 U.S.C. §107. ~~That event~~ 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 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.

~~(b)~~(c) No Notice or Hearing Required

The Court may rule upon a Motion ~~for a Protective Order filed pursuant to~~ under Fed.R.Bankr.P. 9037(d) or a motion to remove a document 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.

~~(e)~~ 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

Proposed revisions and the addition of new subparagraph (b) seek to conform the rule to the changes to FRBP 9037 effective December 1, 2019; other edits are for style uniformity and clarity.

The Comments to the national rule change invite Courts to set or retain local procedures that recognize the challenges faced by the party seeking to redact a document filed by another party. Therefore, the Court retains its requirement that the burden of filing the redacted version, after the Court grants the motion, rests with the original filer. The rule edits also make clear that a miscellaneous proceeding is available when a party seeks redaction of documents in more than ten cases.

## **B-9070-1. DISPOSITION OF EXHIBITS**

### (a) Custody During Pendency of Action

Any item offered into evidence in a case ~~will~~ shall be placed in the Clerk's custody. ~~Unless the Court orders otherwise, these~~ These items may not be claimed from the Clerk until the case is disposed of as to all issues, including appeals, unless the Court orders otherwise.

### (b) Claiming Items After Disposition of Action

The party that offered the items into evidence ~~must~~ may claim them from the Clerk:

- (1) if the case is not appealed, within ~~ninety (90)~~ days after the case is disposed of as to all issues; or
- (2) if the case is appealed, within ~~twenty-eight (28)~~ days after the mandate of the reviewing court is filed in the Clerk's office and the case is disposed of as to all issues, unless the Court orders otherwise ~~ordered~~.

### (c) Procedure for Claiming Items

No motion or order is necessary to claim the items. The party withdrawing them ~~must~~ shall give the Clerk a detailed receipt when the items are withdrawn. The Clerk ~~must~~ shall file the receipt in the cause.

### (d) Failure to Claim Items

The Clerk may dispose of those items not claimed ~~If by~~ the parties ~~fail to claim the items~~ within the deadline set under ~~in~~ subparagraph (b) of this rule, ~~the Clerk may dispose of them in any manner directed by the Court.~~

### (e) Withdrawal of Original Records and Papers

No one may withdraw an original pleading, paper, record, model, or exhibit from the Clerk's custody except as provided by this rule or by Court order.

### Comments

Edits are for style uniformity and clarity.



**(d) NOTICES (OTHER THAN THOSE RELATING TO MORTGAGES):** Non-mortgage creditors in Section 8(c) (whose rights are not being modified) or in Section 11 (whose executory contracts/unexpired leases are being assumed) may continue to mail customary notices or coupons to the Debtor or the Trustee notwithstanding the automatic stay.

**(e) EQUAL MONTHLY PAYMENTS:** As to payments required by paragraphs 7 and 8, the Trustee may increase the amount of any "Equal Monthly Amount" offered to appropriately amortize the claim. The Trustee shall be permitted to accelerate payments to any class of creditor for efficient administration of the case.

**(f) PAYMENTS FOLLOWING ENTRY OF ORDERS LIFTING STAY:** Upon entry of an order lifting the stay, no distributions shall be made on any secured claim relating to the subject collateral until such time as a timely amended deficiency claim is filed by such creditor and deemed allowed, or the automatic stay is re-imposed by further order of the Court.

**3. SUBMISSION OF INCOME:** Debtor submits to the supervision and control of the Trustee all or such portion of future earnings or other future income or specified property of the Debtor as is necessary for the execution of this plan.

**4. PLAN TERMS:**

**(a) PAYMENT AND LENGTH OF PLAN:** Debtor shall pay \_\_\_\_\_  
to the Trustee, starting not later than 30 days after the order for relief, for \_\_\_\_\_ months,  
for a total amount of \_\_\_\_\_.

Additional payments to Trustee and/or future changes to the periodic amount proposed are:

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**(b) INCREASED FUNDING:** If additional property comes into the estate pursuant to 11 U.S.C. §1306(a)(1) or if the Trustee discovers undisclosed property of the estate, then the Trustee may obtain such property or its proceeds to increase the total amount to be paid under the plan. However, if the Trustee elects to take less than 100% of the property to which the estate may be entitled OR less than the amount necessary to pay all allowed claims in full, then a motion to compromise and settle will be filed, and appropriate notice given.

**(c) CURING DEFAULTS:** If Debtor falls behind on plan payments or if changes to the payments owed to secured lenders require additional funds from the Debtor's income, the Debtor and the Trustee may agree that the Debtor(s) will increase the periodic payment amount or that the time period for making payments will be extended, not to exceed 60 months. Creditors will not receive notice of any such agreement unless the total amount that the Debtor(s) will pay to the Trustee decreases. Any party may request in writing, addressed to the Trustee at the address shown on the notice of the meeting of creditors, that the Trustee give that party notice of any such agreement. Agreements under this section cannot extend the term of the plan more than 6 additional months.

**(d) OTHER PLAN CHANGES:** Any other modification of the plan shall be proposed by motion pursuant to 11 U.S.C. §1329. Service of any motion to modify this plan shall be made by the moving party as required by FRBP 2002(a)(5) and 3015(h), unless otherwise ordered by the Court.

**5. PAYMENT OF ADMINISTRATIVE CLAIMS (INCLUSIVE OF DEBTOR'S ATTORNEY FEES):**

NONE

All allowed administrative claims will be paid in full by the Trustee unless the creditor agrees otherwise:

Creditor	Type of Claim	Scheduled Amount

**6. PAYMENT OF DOMESTIC SUPPORT OBLIGATIONS:**

**(a) Ongoing Domestic Support Obligations:**

NONE

Debtor shall make any Domestic Support Obligation payments that are due after the filing of the case under a Domestic Support Order directly to the following payee.

Creditor	Type of Claim	Payment Amount

**(b) Domestic Support Obligation Arrears:**

NONE

The following arrearages on Domestic Support Obligations will be paid in the manner specified:

Creditor	Type of Claim	Estimated Arrears	Treatment

**7. PAYMENT OF SECURED CLAIMS RELATING SOLELY TO THE DEBTOR'S PRINCIPAL RESIDENCE:**

NONE

As required by Local Rule B-3015-1(d), if there is a pre-petition arrearage claim on a mortgage secured by the Debtor's principal residence, then both the pre-petition arrearage and the post-petition mortgage installments shall be made through the Trustee. Initial post-petition payment arrears shall be paid with secured creditors. If there are no arrears, the Debtor may pay the secured creditor directly. Before confirmation, the payment to the mortgage lender shall be the regular monthly mortgage payment unless otherwise ordered by the Court or modified pursuant to an agreement with the mortgage lender. After confirmation, payment shall be as set forth below. Equal Monthly Amount and Estimated Arrears listed below shall be adjusted based on the filed claim and/or notice. Delinquent real estate taxes and homeowners' association or similar dues should be treated under this paragraph.

Creditor	Residential Address	Estimated Arrears	Equal Monthly Amt.	Mortgage Treatment
				<input type="radio"/> Trustee pay <input type="radio"/> Direct pay



**8. PAYMENT OF SECURED CLAIMS OTHER THAN CLAIMS TREATED UNDER PARAGRAPH 7:**

**(a) Secured Claims as to Which 11 U.S.C. § 506 Valuation Is Not Applicable:**

NONE

Pursuant to Local Rule B-3015-1(c), and unless otherwise ordered by the Court, prior to plan confirmation, as to secured claims not treated under paragraph 7 and as to which valuation under 11 U.S.C. § 506 is not applicable, the Trustee shall pay monthly adequate protection payments equal to 1% of a filed secured claim. The Trustee shall disburse such adequate protection payments to the secured creditor as soon as practicable after receiving plan payments from the Debtor, and the secured claim will be reduced accordingly. After confirmation of the plan, unless otherwise provided in paragraph 15, the Trustee will pay to the holder of each allowed secured claim the filed claim amount with interest at the rate stated below.

Creditor	Collateral	Purchase Date	Estimated Claims Amount	Interest Rate	Equal Monthly Amount

**(b) Secured Claims as to Which 11 U.S.C. § 506 Valuation Is Applicable:**

NONE

Pursuant to Local Rule B-3015-1(c), and unless otherwise ordered by the Court, prior to plan confirmation as to secured claims not treated under paragraph 7 but as to which § 506 valuation is applicable, the Trustee shall pay monthly adequate protection payments equal to 1% of the value of the collateral stated below. The Trustee shall disburse such adequate protection payments to the secured creditor as soon as practicable after receiving plan payments from the Debtor, and the secured claim will be reduced accordingly. After confirmation of the plan, unless otherwise provided in paragraph 15, the Trustee will pay to the holder of each allowed secured claim in the manner set forth below.

Creditor	Collateral	Purchase Date	Scheduled Debt	Value	Interest Rate	Equal Monthly Amount

**(c) Curing Defaults and/or Maintaining Payments:**

NONE

Trustee shall pay the allowed claim for the arrearage, and Debtor shall pay regular post-petition contract payments directly to the creditor:

Creditor	Collateral/Type of Debt	Estimated Arrears	Interest Rate

**(d) Surrendered/Abandoned Collateral:**

NONE

The Debtor intends to surrender the following collateral. Upon confirmation, the Chapter 13 estate abandons any interest in, and the automatic stay pursuant to 11 U.S.C. § 362 is terminated as to, the listed collateral and the automatic stay pursuant to 11 U.S.C. §1301 is terminated in all respects. Any allowed unsecured claim resulting from the disposition of the collateral will be treated in paragraph 10.(b) below. Upon confirmation, the secured creditor is free to pursue its *in rem* rights.

Creditor	Collateral	Surrendered/Abandoned	Scheduled Value
		<input type="radio"/> Abandoned <input type="radio"/> Surrendered	

**9. SECURED TAX CLAIMS AND 11 U.S.C. § 507 PRIORITY CLAIMS:**

NONE

All allowed secured tax obligations shall be paid in full by the Trustee, inclusive of statutory interest thereon (whether or not an interest factor is expressly offered by plan terms). All allowed priority claims shall be paid in full by the Trustee, exclusive of interest, unless the creditor agrees otherwise:

Creditor	Type of Priority or Secured Claim	Scheduled Debt	Treatment

**10. NON-PRIORITY UNSECURED CLAIMS:**

**(a) Separately Classified or Long-term Debts:**

NONE

Creditor	Basis for Classification	Treatment	Amount	Interest

**(b) General Unsecured Claims:**

Pro rata distribution from any remaining funds; or

Other: \_\_\_\_\_

**11. EXECUTORY CONTRACTS AND UNEXPIRED LEASES:**

All executory contracts and unexpired leases are REJECTED, except the following, which are assumed. Click [here](#) to list assumed leases.

Creditor	Property Description

**12. AVOIDANCE OF LIENS:**

NONE

Debtor will file a separate motion or adversary proceeding to avoid the following non-purchase money security interests, judicial liens, wholly unsecured mortgages or other liens that impair exemptions:

Creditor	Collateral/Property Description	Amount to be Avoided

**13. LIEN RETENTION:** With respect to each allowed secured claim provided for by the plan, the holder of such claim shall retain its lien securing such claim until the earlier of a) the payment of the underlying debt determined under non-bankruptcy law or b) entry of a discharge order under 11 U.S.C. §1328.

**14. VESTING OF PROPERTY OF THE ESTATE:** Except as necessary to fund the plan or as expressly retained by the plan or confirmation order, the property of the estate shall revert in the Debtor upon confirmation of the Debtor's plan, subject to the rights of the Trustee, if any, to assert claim to any additional property of the estate acquired by the Debtor post-petition pursuant to operation of 11 U.S.C. §1306.

**15. NONSTANDARD PROVISIONS:**

NONE

Under FRBP 3015(c), nonstandard provisions are required to be set forth below. Any nonstandard provision placed elsewhere in the plan is void. These plan provisions will be effective only if the included box in Paragraph 1.3 of this plan is checked.

Date: 10/28/2019

\_\_\_\_\_  
Signature of Debtor

\_\_\_\_\_  
Printed Name of Debtor

\_\_\_\_\_  
Signature of Joint Debtor

\_\_\_\_\_  
Printed Name of Joint Debtor

\_\_\_\_\_  
Signature of Attorney for Debtor(s)

Address: \_\_\_\_\_

City, State, ZIP code: \_\_\_\_\_

Area code and phone: \_\_\_\_\_

Area code and fax: \_\_\_\_\_

E-mail address: \_\_\_\_\_

By filing this document, the Debtor(s), if not represented by an attorney, or the Attorney for the Debtor(s) also certify(ies) that the wording and order of the provisions in this Chapter 13 plan are identical to those contained in the form plan adopted by this Court, other than any nonstandard provisions included in paragraph 15.