

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, 2020. A complete set of the proposed amendments accompanies this notice. The minor plan edit is discussed below.

Edits required by changes to the national rules effective December 1st appear in Local Rule B-2002-1. Other edits to the national rules did not prompt any local rules edits.

Several substantive edits are proposed. Review of the attached, which shows all the proposed changes, is recommended. The Court highlights the following:

Chapter 13: The process for the Chapter 13 debtor to retain and then seek compensation for professionals is revamped to reflect that the debtor's professionals are not subject to 11 U.S.C. §§327 et seq. If the rules are adopted, the debtor will file a Notice of Retention and Compensation Terms. See proposed new rule B-2014-2 and proposed new subparagraph B-2016-1(c)(7). The Chapter 13 debtor will not be filing an application to employ a professional, an application for compensation for that professional, or a motion to compromise and settle. If the efforts of the debtor's professional result in additional funds, the trustee is notified and may file a Motion to Approve Settlement Distribution. See the proposed edit to B-9014-1.

If these proposed changes are adopted, then the local Chapter 13 plan form needs one minor edit, to reflect that the trustee or the debtor may not be filing a motion to compromise and settle. In paragraph 4.b., the phrase "a motion to compromise and settle will be filed" gets shortened to "a motion will be filed...."

Chapter 11: Those involved in Chapter 11 cases will want to review closely the edits proposed to B-2014-1 and B-2016-1. In the first rule, the process for obtaining approval of periodic compensation other than under 11 U.S.C. §331 is clarified with a few additional requirements added. In the second rule, new requirements for the filing of interim and final fee applications are added.

Many of the other local rules are edited to set or clarify procedures for "Subchapter V" Chapter 11 cases. See B-3017-2; B-3018-1; B-3022-1 and B-3022-2. A new rule is proposed to establish the discharge process in "Subchapter V" cases. See B-4004.2

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

Comments to the proposed rules edits can be made by sending an email to Local_Rules_Comments@insb.uscourts.gov . Deadline for comments is **5:00 PM on Thursday, November 19, 2020**.

October 22, 2020

/s/ Kevin P. Dempsey
Bankruptcy Clerk

2020 PROPOSED AMENDMENTS

B-1000-1. ABBREVIATIONS AND DEFINITIONS

(b) Definitions Applicable to All Rules

Capitalized terms in these local rules are defined below or in the rule where the term is used, or are the title to an official form or specific ECF event.

- (1) Appearance: an appearance that complies with S.D.Ind. B-9010-1
- (2) Certificate of Service: a document that complies with S.D.Ind. B-9013-2
- (3) Clerk: the Clerk of the Court
- (4) Court: the United States Bankruptcy Court for the Southern District of Indiana
- (5) Court's website: refers to the Court's website located at <http://www.insb.uscourts.gov>.
- (6) Debtor: includes both debtors in a joint case and a debtor-in-possession in a Chapter 11 or Chapter 12 case. In the context of service of pleadings and notices, "the Debtor" includes the Debtor and counsel of record for the Debtor. A requirement imposed upon the "Debtor" by these rules shall be performed by counsel for the Debtor, if any, except as follows:
 - (A) Official Forms shall be signed by the Debtor or the Debtor's representative in a non-individual case under Fed.R.Bankr.P. 9001(5); and
 - (B) if counsel for the Debtor in the bankruptcy case has not entered an appearance in the matter pending before a state court or other tribunal, the notices required by S.D.Ind. B-4002-1(a) shall be signed by the Debtor or an attorney who has entered an appearance for the Debtor in the non-bankruptcy matter.
- ~~(7)~~ Meeting of Creditors: includes the first meeting set under 11 U.S.C. §341 and any continued meeting.
- ~~(7)~~(8) Non-Sub V Small Business Case: a case filed under Chapter 11 of the U.S.C. in which the Debtor is a small business debtor as defined by 11 U.S.C. § 101(51D) and the Debtor has not elected to proceed under Subchapter V of Chapter 11 of the U.S.C.

~~(8)~~(9) Notice List: the Service List and parties required to receive notice under Fed.R.Bankr.P. 2002, unless the Debtor has obtained an order limiting notice.

(10) Objection Notice: a notice that the filer is required to distribute to designated parties which gives a time period after service for the filing of objections or responses. A rule with this reference gives the time period and designates the parties to whom the notice is distributed.

~~(9)~~(11) Professional: an attorney, accountant, appraiser, auctioneer or other professional person whose employment was approved by the Court under 11 U.S.C. §§327, 1103(a), or 1114(b)(2).

(12) Service List: the Debtor, the Debtor's counsel, the 20 largest unsecured creditors in a Chapter 11 case or, if applicable, the unsecured creditors' committee, the UST, all secured creditors, an indenture trustee, a committee appointed under 11 U.S.C. §1102 or 1114, and counsel that has filed an Appearance. If counsel appears for a party listed above, that counsel shall be substituted for the party for purpose of this definition, absent a specific request by the party that it be retained on the Service List.

~~(10)~~(13) Sub V Small Business Case: a case filed under Chapter 11 of the U.S.C. in which the Debtor is defined by 11 U.S.C. § 1182(1) and the Debtor has elected to proceed under Subchapter V of Chapter 11 of the U.S.C.

~~(11)~~(14) Trustee or trustee: the trustee appointed in a bankruptcy case under 11 U.S.C. §§701, 702, 1104, 1202, or 1302.

Comments

New subparagraphs (8) and (13) added to define a "Non-Sub V Case" and a "Sub V Small Business case." New subparagraph (11) added to define "Professional."

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

(b) Eviction Judgments and Rent Deposits

(1) 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. If applicable, the Debtor shall deliver to the Clerk, along with the voluntary petition and Form 101A (or within one day of filing, if the voluntary petition is filed electronically), a check or money order, made payable to the landlord, in the amount of rent due during the 30-day period after the filing of the voluntary petition.

(2) 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.

Comments

Subparagraph(b) revised to more clearly spell out the requirement of a debtor submitting a Form 101A to submit rent arrears payable to their landlord no later than one day after filing of petition.

B-1003-1. POWER OF ATTORNEY

(a) General Requirements

- (1) A petition filed by an attorney-in-fact shall be accompanied by a copy of the power of attorney authorizing the signer to act on behalf of the Debtor. The power of attorney shall be either a general power of attorney authorizing the attorney-in-fact to take any action which the principal could take or a special power of attorney authorizing the attorney-in-fact to file the petition.**
- (2) The power of attorney shall:**
 - (A) be in writing, signed by the principal and properly notarized;**
 - (B) provide the attorney-in-fact's name, mailing address, telephone number and email address; and**
 - (C) be properly executed and valid under applicable non-bankruptcy law.**
- (3) The attorney-in-fact shall appear at the Meeting of Creditors to respond to trustee inquiries regarding the commencement of the case.**
- (4) The attorney-in-fact may not complete either the pre-petition credit counseling requirement or post-petition financial management course on the debtor's behalf.**

(b) Court Review

On its own motion or the motion of a party in interest, the Court may order a hearing to review the power of attorney and the attorney-in-fact's authority.

Comments

New rule added to address situation of pro se filers either submitting petitions (and other pleadings) without a power of attorney form or one that does not apply to bankruptcy (such as the Indiana Department of Revenue power of attorney form).

B-1006-1. PAYMENT OF FILING FEE IN INSTALLMENTS

(d) Installment Fees in Chapter 13 Cases

Installment fees authorized in a Chapter 13 case shall be paid directly by the Debtor to the office of the Clerk in the division where the case is pending and not through the Chapter 13 plan. Debtor's counsel in receipt of good funds intended for the payment of a filing fee installment shall remit those funds to the Court within 14 days of receipt.

Comments

Language added to subparagraph (d) to require that counsel in receipt of filing fees submit those funds to the Clerk's Office within 14 days of receipt, rather than holding until due date.

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

(c) Claims Agent

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

- (3) provide that, upon receipt of a claim, the Claims Agent shall promptly date-stamp it, assign a claim number, scan the original, file the claim electronically with the Court, retain originals in a fire-proof safe or vault, and return a date-stamped copy to the claimant (if a self-addressed, postage paid envelope was provided);

Comments

Subparagraph (c)(3) revised to add provision that claims agent is to electronically file proofs of claim with the Court (as part of the Court's efforts to eliminate the need to process hard copies of proofs of claim at case conclusion and sending the same to the Federal Records Center).

B-1007-4. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY A NON-INDIVIDUAL DEBTOR WITH VOLUNTARY PETITION

The Corporate Ownership Statement required to be filed by a corporate Debtor with a voluntary petition under Fed.R.Bankr.P. 1007(a)(1) shall also be filed by a non-individual Debtor.

B-1010-3. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL PETITIONER IN AN INVOLUNTARY CASE

The Corporate Ownership Statement required to be filed by a corporate petitioner with an involuntary petition under Fed.R.Bankr.P. 1010(a)(2) shall also be filed by each non-individual petitioner that is not a governmental unit.

B-1010-4. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL RESPONDENT TO AN INVOLUNTARY PETITION

The Corporate Ownership Statement required to be filed by a corporation responding to an involuntary petition under Fed.R.Bankr.P. 1011(f) shall also be filed by each non-individual respondent that is not a governmental unit.

B-1012-1. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL RESPONDENT TO A PETITION FOR RECOGNITION OF A FOREIGN PROCEEDING

The Corporate Ownership Statement required to be filed by a corporation responding to a petition for recognition of a foreign proceeding under Fed.R.Bankr.P. 1012(c) shall also be filed by each non-individual respondent.

Comments

Each related rule added to require filing of a Corporate Ownership Statement in response to filing voluntary and involuntary petitions and a petition for recognition of a foreign proceeding.

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

(b) Joint Administration

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

(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) an adversary proceeding filed under Fed.R.Bankr.P. 7001(4) or (6);
- (x) a notice of appeal concerning an order entered only in the member case; and
- (ixi) documents related to the foregoing.

(B) Chapter 11 Cases

- (i) plans, disclosure statements, ballot reports, and objections or other documents related thereto;
- (ii) debtor monthly operating reports;
- (iii) Motions to Extend Exclusivity Period/Deadlines Under 11 U.S.C. §§ 1121, 1129, or 1221;
- (iv) Application for Final Decree; and
- (iv) documents related to the foregoing.

Comments

An adversary proceeding filed under Fed.R. Bankr. P. 7001(4) or (6) must be filed in the proper lead or member case for all chapters, while the same holds for a notice of appeal related to an order entered only in a member case. An application for final decree in cases proceeding under Chapter 11 shall also be filed in the appropriate lead or member case.

B-1016-1. NOTICE OF THE DEBTOR'S DEATH

The attorney for the Debtor, or a personal representative empowered to make decisions on behalf of the Debtor's estate, shall file a ~~notice-verified statement~~ of the Debtor's death as soon as possible after verifying that the Debtor is deceased.

Comments

Rule amended to allow personal representative to file verified statement of Debtor's death.

B-2002-1. NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS, AND UNITED STATES TRUSTEE

(c) Notices in Chapter 11 Cases in Which A Committee Has Been Appointed

Under Fed.R.Bankr.P. 2002(i) and unless otherwise ordered by the Court, the notices required by Fed.R.Bankr.P. 2002(a)(2)(excluding those related to the sale of substantially all of a debtor's assets),(3), and (6) may be served only on the Service List.

(e)(d) Limited Notice in ~~Chapter 7 Cases~~a Voluntary Case

In Chapter 7 cases a voluntary Chapter 7, 12 or 13 case, 90-70 days after the first date set for the Meeting of Creditors or, if a report of possible assets has been filed, 90 days after the issuance of the Notice of Possible Asset following entry of the order for relief or the date of the order converting the case to Chapter 12 or 13s, all notices required by Fed.R.Bankr.P. 2002(a), except the notice of the final report and of dismissal or denial of discharge, shall be mailed only to the Debtor, the trustee, the UST, creditors who have filed claims, and creditors who are still permitted to file claims by reason of an extension granted under Fed.R.Bankr.P. 3002(c)(1) or (2).

(d)(e) Limited Notice in ~~Chapter 13 Cases~~an Involuntary Case

In Chapter 13 cases an involuntary Chapter 7 case, after the entry of a confirmation order after 90 days following entry of the order for relief, all notices required by Fed.R.Bankr.P. 2002(a) shall be mailed only to the Debtor, the trustee, the UST, creditors who have filed claims, and creditors who are still permitted to file claims by reason of an extension granted under Fed.R.Bankr.P. 3002(c)(1) or (2).

(e)(f) Authorization for Chapter 13 Trustee to Recover Noticing Costs from Estate

(f)(g) Notice of Final Report with Notice of Applications for Compensation

(g)(h) Returned and Undeliverable Mail

Comments

New subparagraph (c) added to limit notice in those rare instances where a chapter 11 committee is appointed. Subparagraphs (d) and (e) are amended to conform to the revisions of FRBP 2002(h) that become effective on December 1, 2020. FRBP 2002(h) "is amended to add cases under chapters 12 and 13 of the Bankruptcy Code and to conform the time periods in the subdivision to the respective deadlines for filing proofs of claim under Rule 3002(c)."

B-2014-1. EMPLOYMENT OF PROFESSIONAL PERSONS AND TREATMENT OF RETAINERS IN CHAPTER 11 AND 12 CASES

(a) Employment Applications Generally

A person (the “Applicant”) seeking Court approval of the employment of a professional ~~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 that complies~~ 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 and 12 Cases

(1) Time to File

An Employment Application for the Debtor’s counsel in a Chapter 11 and 12 case shall be filed within 14 days after the commencement of the case or conversion of the case to Chapter 11 or 12.

(4) ~~Treatment of Retainer~~ Periodic Compensation Other Than Pursuant to 11 U.S.C. § 331

A proposed Professional shall obtain Court approval of the terms for applying a retainer to the payment of the Professional’s fees and expenses: or any other procedure for receiving compensation before a final fee application that does not comply with 11 U.S.C. § 331. If requested as part of the Application, the proposed procedure shall be summarized in the Objection Notice. If requested separately, the Applicant shall provide notice in the same manner as required by subparagraph (b)(2)(A) of this rule. Any proposed procedure shall include the following terms: ~~Those terms may be similar to the following:~~

(A) a limit on payment without a fee application to 80% of the fees requested, but the procedure may provide for payment of 100% of expenses;

~~(A)~~(B) the proposed schedule for filing a Notice of Draw on Retainer/Payment of Fees and Expenses Pursuant to B-2014-1 ("Notice of Draw") and for making available the documents that support the requested payment;

~~— apply the retainer to satisfy the Professional's fees and expenses as awarded by the Court under 11 U.S.C. §§330 and 331;~~

~~— hold the entire retainer without an application for payment of fees and expenses until final award by the Court of the Professional's final application for fees and expenses, with allowed interim fees and expenses paid from other estate assets;~~

~~— draw against the retainer at specified intervals prior to the award of fees and expenses by the Court under subparagraph (b)(4) of this rule; or~~

~~other Court approved arrangements.~~

(C) the proposed distribution of the Notice of Draw and supporting documents; and

~~(B)~~(D) suspension of the proposed procedure as to any Professional who does not comply with the periodic filing requirements of S.D.Ind. B-2016-1(b)(2)(i).

(5) Procedure for Periodic Payment from Retainer~~Effect of Court's Approval of Procedure for Interim Payments~~

Court approval of an interim payment procedure is not allowance of fees and expenses that are subject to the interim payment procedure. All fees and expenses are paid subject to court approval of the Professional's final fee application. Failure of a party to object to a Professional's Notice of Draw does not affect the party's right to objection to an interim or final fee application. The Court may approve a request by the Professional for a streamlined procedure for periodic payment of fees and expenses from a retainer, prior to Court award of interim or final fees and expenses. The proposed procedure shall provide for payment of no more than 80% of requested fees but may provide for payment of 100% of expenses.

~~(A) — If requested as part of the Application, the proposed procedure shall be summarized in the Objection Notice. If requested separately, the Applicant shall provide notice in the same manner as required by subparagraph (b)(1)(B) of this rule.~~

~~(B) — All such arrangements shall provide that prior to the fee draw the Professional shall file with the Clerk a Notice of Draw which sets forth the amount of the proposed draw and contains, as an attachment, a copy of the periodic billing which supports the amount of the draw. The CM/ECF event “Notice of Draw on Retainer/Payment of Fees or Expenses Pursuant to B-2014-1” should be used.~~

~~(C) — The Notice of Draw shall be distributed to the Service List and a copy of the relevant periodic billing shall be delivered to the UST. Failure of a party to object to the draw does not affect the party’s right to object to the final allowance of fees and expenses. Court approval of the draw procedure is not allowance of fees and expenses. All fees and expenses drawn are subject to disgorgement until the Court allows the final fee application of the Professional.~~

~~(6) — Other Periodic Payment Procedure~~

~~The Court may approve procedures for periodic payment, other than from a retainer, subject to the provisions of subparagraph (b)(4) of this rule.~~

Comments

The rule is amended to make the retention of Professionals the same for Chapter 12 as for Chapter 11 cases. Subparagraph (b)(4) is amended to reflect the current procedure used by parties and the Court to establish the steps for obtaining periodic compensation in Chapter 11 cases – other than by fee applications under Section 331. The specific elements required in any procedure for interim compensation are listed.

B-2014-2. EMPLOYMENT OF PROFESSIONALS IN CHAPTER 13 CASES

If the Debtor is using a Professional to pursue the determination or collection of property of the estate pursuant to 11 U.S.C. § 1306, including claims that arise post-petition, the Debtor shall file a Notice of Retention and Compensation Terms as to each Professional retained. The Notice shall report the consent of the trustee to the terms of compensation and shall confirm the instruction given to the Professional on the disposition of any proceeds. A sample form Notice of Retention and Compensation Terms is available on the Court's website.

Comments

The Chapter 13 debtor's retention of professionals is not governed by 11 U.S.C. §327 because the Chapter 13 debtor is not a trustee or a debtor-in-possession under Chapter 11 or 12. Therefore, the debtor's professionals are not subject to the employment procedure set forth in Fed.R.Bankr.P. 2016. However, it is appropriate for the Court and the trustee to be on notice of the debtor's pursuit of a claim and the arrangement with professionals. This rule also applies to the attorney representing the debtor in the bankruptcy case if that attorney pursues claims under terms of compensation not covered in the compensation disclosure filed in the case or by the Rights and Responsibilities.

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

(a) Generally

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

(b) Chapter 11 Cases

(1) Cases Under Traditional Fee Award Process

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

(2) Cases with Periodic Payment Process

(A) If the Professional has obtained Court approval of a periodic payment procedure under S.D.Ind. B-2014-1(b)(4), then the Professional shall file an application for interim fees and expenses under 11 U.S.C. § 331 no less frequently than 180 days after the order for relief and no later than every 180 days thereafter. The authorization for periodic payment procedures is suspended if the required applications are not filed.

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

~~(b)~~(c) Chapter 13 Cases

(4) Fees Upon Case Dismissal

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

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

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

Comments

Proposed new subparagraph (b) reminds Professionals of the need to file a final fee application and requires those who have obtained approval of a periodic payment procedure to file interim fee applications at least every 180 days from the order for relief. As to subparagraph (c)(4) concerning Chapter 13 cases, new language clarifies that counsel cannot get paid at dismissal if the filing fee has not been paid in full.

New subparagraph (c)(7) is added to the local rule to create a procedure for disclosure of the compensation to professionals retained by the Chapter 13 debtor. Compare the proposed edit to S.D.Ind. B-9019-1. The trustee is not required to file a Motion to Approve Settlement Distribution whenever the debtor has retained a professional and reported a settlement and the trustee may not do so if the settlement is de minimis or the plan is paying creditors in full. Therefore, in some situations the compensation to professionals may not be clear in the Court's record.

B-3006-1. WITHDRAWAL OF PROOF OF CLAIM

(a) Notice of Withdrawal

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

(1) no objection to the claim has been filed;

(2) the claimant is not a defendant in an adversary proceeding in the case; and

(3) in a Chapter 11, 12 or 13 case, the claimant has not accepted or rejected the plan or otherwise participated meaningfully in the case.

(b) Motion to Withdraw

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

Comments

New subparagraph (a) sets forth the procedure a creditor must follow to demonstrate that withdrawal of claim by notice, without filing motion to withdraw claim, is appropriate.

B-3007-1. OBJECTIONS TO CLAIMS: NOTICE

A party that objects to a claim shall provide a 30-day Objection Notice to the claimant to whom the objection is directed, the Debtor, a trustee, and the UST. Along with the objection, the objector shall file the notice and a Certificate of Service. The objection shall include the number of the claim as it appears on the claims docket. The objection, notice, and Certificate of Service may be combined into one document, a sample of which is available on the Court's website.

Comments

While the claims number appears in docket text when objections are properly filed, the judges requested this revision to require that the claim number is identified within the claim objection itself.

B-3010-1. SMALL DIVIDENDS AND PAYMENTS

Trustees in Chapters 7, 12, and 13 cases ~~are authorized to~~shall distribute dividends and payments to creditors in any amount, unless the Court orders otherwise.

Comments

Rule amended to make clear that trustees are required to disburse small creditor dividends.

B-3011-1. TRUSTEE REMITTANCE OF UNCLAIMED FUNDS AND COURT FEES

An application for payment of unclaimed funds shall comply with the instructions ~~from set forth on~~ and shall be submitted on ~~forms~~the Application for Payment of Unclaimed Funds form made available on the Court's website. Trustees shall remit both fees owed by the estate and unclaimed funds to the Court as Automated Clearing House transactions.

Comments

The first sentence of the rule is edited for clarity, while the second sentence was added to require trustees to use ACH to deposit funds with the Court, which will be a permanent expansion of General Order 20-0006. The title was also revised to conform to the rule language changes.

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

(f) Distribution of Notice of Confirmation

After the Court has entered an order confirming a plan, the Chapter 13 Trustee shall distribute notice of confirmation as required by Fed.R.Bankr.P. 2002(f)(7) and file a Certificate of Service.

Comments

Fed.R.Bankr.P. 2002(f)(7) currently requires notice of confirmation in Chapter 9, 11, and 12 cases. The Court distributes that notice. Effective December 1, 2020, notice of confirmation in Chapter 13 cases is required. The rule allows the Court to designate an entity to serve the notice. Currently, at least one Chapter 13 trustee is providing notice of confirmation. Given the trustee's mailing of the initial plan, the Court determined that the Chapter 13 trustee is the most logical party to send the notice of confirmation.

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

(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, in the body of the motion and not as an attachment, 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.

Comments

Subparagraph (b)(1) revised to make clear that that both the current and proposed new plan payment must be spelled out in the body of the motion and not simply addressed by attaching a former version of the plan to the motion.

B-3017-2. CONSIDERATION OF DISCLOSURE STATEMENTS IN NON-SUB V SMALL BUSINESS CASES AND CONFIRMATION DEADLINES

(a) Expedited Processing of Disclosure Statement in Non-Sub V Cases

If the proponent of a plan in a Non-Sub V ~~small business~~ Case requests that the Court:

- (1) determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;
- (2) approve a disclosure statement submitted on an approved official form; or
- (3) conditionally approve a disclosure statement subject to final approval at a hearing where the Court will also consider confirmation of the proposed plan,

the proponent shall file a notice along with the proposed plan or disclosure statement. The notice shall specify why the relief requested is appropriate. A sample notice is available on the Court's website.

Comments

Rule is edited to clarify that cases under Subchapter V of Chapter 11 – which do not require the filing of disclosure statements – are not subject to this rule. Addresses confusion within the Clerk's office as to processing Sub V and Non-Sub V cases now defined within B-1000-1, new subparagraphs (8) and (12).

**B-3018-1. BALLOTS; VOTING ON PLAN; CONFIRMATION ORDER -
CHAPTER 11**

(a) Distribution of Plan and Related Documents

~~Within~~ In a Non-Sub V Case, within seven days after the approval or conditional approval of the disclosure statement or determination that a disclosure statement is not needed, the party filing the plan (the “Plan Proponent”) shall distribute copies of the plan, disclosure statement, ballot(s), and notice of the confirmation hearing to all creditors and parties in interest. The Plan Proponent shall file within 14 days thereafter a Certificate of Service. In a Sub V Case, the Court shall enter an order setting the requirements for plan distribution.

(d) Confirmation Order

After the confirmation hearing, if the plan is confirmed the plan proponent shall submit a proposed confirmation order. In a Sub V Case, the caption of the confirmation order shall state whether confirmation was obtained under 11 U.S.C. § 1191(a) or (b).

Comments

The rule is amended to note the difference in plan distribution process for non-Sub V cases. In those cases, the Court enters an order setting the requirements. The amendment also adds a requirement – already in place but not stated in the rule – that the plan proponent provide a confirmation order. The caption of the confirmation order in a Sub V case will help the Clerk’s office decide when discharge can be entered. See proposed edits to B-3022-2 below.

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

In a Non-Sub V Case or a Sub V Case confirmed under 11 U.S.C. § 1191(a) in which the Debtor is not an individual, After the estate has been fully administered, the Plan Proponent or other entity administering the confirmed plan shall apply for a final decree, after the estate has been fully administered. In a Sub V Case confirmed under 11 U.S.C. § 1191(b) in which the Debtor is not an individual, the Debtor shall apply for a final decree after the trustee has filed the final report. The application shall include the percentage paid or proposed to be paid to general unsecured creditors.

Comments

The closing process in a Sub V case still includes a request for a final decree but the triggering event changes. In any Sub V case the trustee will file a final report. If the case was confirmed under §1191(a), the trustee's report will be filed early – before the debtor is ready to have the case closed. Therefore, for Sub V cases confirmed under §1191(a) the application for final decree will not be filed until the case is fully administered. In cases confirmed under §1191(b) the trustee's final report will be filed after all funds have been paid out under the plan. The rules committee elected not to set a deadline for the filing of the application for final decree, as only the plan proponent will know when all matters have been resolved. Other text has been added to clarify that this rule sets the process for non-individual debtors. In a case confirmed under §1191(a) the debtor is to file a Notice of Substantial Consummation, as required in §1183(c)(2). Since that filing is required by statute, it is not mentioned in the local rules. That filing serves only to trigger the termination of the trustee's services, pursuant to §1183(c)(1).

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

(a) Application-Timing of Application for Final Decree: Payments Completed

~~If the Debtor has completed all plan payments~~In a case confirmed under 11 U.S.C. § 1191(a), the individual Debtor shall may apply for a final decree any time after docketing of the confirmation order. In a case confirmed under 11 U.S.C. § 1129 or § 1191(b), the individual Debtor shall apply for a final decree upon completion of all plan payments. The application shall include the percentage paid to general unsecured creditors.~~If the Debtor is otherwise eligible, the Court shall issue a discharge.~~

(b) Request for Hardship Discharge

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

(c) Closing Case Before Plan Payments Completed

~~If the Debtor~~In a case confirmed under 11 U.S.C. § 1129, or § 1191(b) for which the Debtor is the entity administering the confirmed plan, a Debtor that wishes to close the case pending completion of the plan,~~the Debtor~~ must file a Motion to Close Chapter 11 Case that states an intention to reopen the case upon plan completion. If the motion is granted, the Clerk shall not issue a Notice of No Discharge as otherwise required by Fed.R.Bankr.P. 4006. After completion of the plan and the reopening of the case, the Debtor shall file the Application for Final Decree and supporting documents as required in subparagraph (a) of this rule.

Comments

Subparagraph (a) is amended to specify the conditions under which an individual debtor can move for entry of a final decree in Chapter 11 cases. Subparagraph (c) is amended to permit a Sub V debtor, whose case was confirmed under § 1191(b) and is the party administering plan payments, to file a motion to close the case pending plan completion.

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

(a) Relief from Stay or Co-Debtor Stay

(1) Contents of Motion

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

(G) the statement in the motion's caption "with ~~30-day~~ waiver of deadlines" if the motion is subject to 11 U.S.C. §362(e) and the filer waives the preliminary and final hearing requirements of an initial hearing within 30 days of filing under 11 U.S.C. § 362(e).

(2) Notice: Co-Debtor Stay or Waiver of 30-Day Hearing RequirementDeadlines

A movant that consents to the waiver of the ~~30-day~~ 11 U.S.C. § 362(e) hearing requirements or that seeks only relief from the co-debtor stay shall:

(A) serve a 14-day Objection Notice on the Service List, a trustee, any creditor asserting a lien on the same property, parties in interest, and any co-debtor in a Chapter 12 or 13 case, ~~unless notice has been limited under S.D.Ind. B-2002-1(e) or (d)~~. If the motion also seeks abandonment, additionally distribute the notice to all creditors, unless notice has been limited under S.D. Ind. B-6007-1; and

(B) ~~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(e) or (d); and file a Certificate of Service.~~

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

(3) Notice: No Waiver of 30-Day Hearing RequirementDeadlines

If a motion is subject to the ~~30-day~~ hearing requirement and the movant has not waived ~~that~~ the 11 U.S.C. § 362(e) hearing requirements:

- (A) the Court shall, after filing, prepare ~~provide the movant with a~~ notice that sets the objection deadline and the hearing date. The Court may distribute the notice or direct the movant to distribute it;
- (B) if directed by the Court, the movant shall serve the notice identified in subparagraph (a)(3)(A) of this rule on the Service List, a trustee, any creditor asserting a lien on the same property, parties in interest, and any co-debtor in a Chapter 12 or 13 case. ~~;~~ ~~unless notice has been limited under S.D.Ind. B-2002-1(c) or (d);~~ If the motion also seeks abandonment, the movant shall additionally distribute the notice to all creditors, unless notice may be limited under S.D. Ind. B-6007-1(b); and
- ~~(A) if the motion also seeks abandonment, the movant shall 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~~
- (C) the movant shall file a Certificate of Service no later than the objection deadline.

(4) Resolution of Motion

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

(b) Extend or Impose the Stay

(3) Contents of Motion to Impose the Stay

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

(A) Motion to Extend or Impose the Stay

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

~~if the motion is intended to stop a sheriff's sale or other involuntary sale of property of the estate, the caption and the case number of the non-bankruptcy action pending in a state court or other tribunal; and~~

(B) Motion to Impose the Stay

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

(i) if the motion is intended to stop a sheriff's sale or other involuntary sale of property of the estate, the caption and the case number of the non-bankruptcy action pending in a state court or other tribunal; and

(ii) the name of and contact information, if available, for the creditors involved in the non-bankruptcy action and their counsel, if any.

Comments

Subparagraphs (a)(1)(G), (a)(2) and (a)(3) revised to clarify waiver of §362(e) deadlines, as the current language does not make clear that the election applies to all deadlines. Subparagraph (b)(3)(A) added as requirement for party seeking to impose or extend the stay to disclose name of party that sought stay relief in prior case and provide disposition of same. Subparagraph (b)(3)(B)(i) included to require that debtor seeking to impose stay to forestall a sheriff's sale to include specific information of the foreclosure case.

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

(b) Request Directed to Trustee

The Debtor's request to incur debt, other than debt to be secured by real estate, shall first be made to the trustee. If approved by the trustee, the Debtor may incur the debt. If the trustee has not directed use of a specific form, the request shall include the following information:

Comments

Language added to subparagraph(b) to clarify that debtor's request to incur debt should be first made to the trustee for debt other than that secured by real estate.

B-4004-1. DISCHARGE IN INDIVIDUAL CHAPTER 12 AND CHAPTER 13 CASES

(e) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. §§1228(b) or 1328(b), the Debtor shall file a Motion for Hardship Discharge and a Certification of Eligibility for Discharge. The requirements to file a Certification of Eligibility for Discharge and a Certificate of Debtor Education are waived if the debtor seeking the hardship discharge is deceased and a verified statement of the debtor's death has been filed as required by S.D.Ind. B-1016-1. A sample Certification is available on the Court's website. The Debtor shall serve the Motion for Hardship Discharge and the Certification of Eligibility for Discharge as required by subparagraph (c).

Comments

Language added to subparagraph (e) to memorialize judges' decision that traditional hardship pleading requirements are waived if the debtor is deceased and the provisions of S.D.Ind. B-1016-1 have been met.

B-4004-2. DISCHARGE IN SUB V CHAPTER 11 CASES

(a) Discharge in Case Confirmed Under §1191(a)

If the case has been confirmed under 11 U.S.C. §1191(a) and the Debtor is an individual, the Court shall enter the discharge immediately after entry of the confirmation order.

(b) Discharge in Case Confirmed Under §1191(b)

(1) Notice of Completion of § 1192 Payments

The entity administering the confirmed plan shall file a Notice of Completion of § 1192 Payments after the Debtor has made the number of payments required to be eligible for a discharge. A sample form is available on the Court's website.

(2) The Debtor's Required Pleadings

Within 30 days after the filing of the Notice of Completion of § 1192 Payments, the Debtor shall file a Motion for Entry of Discharge and a Certification of Eligibility for Discharge. Each Debtor in a joint case shall file a separate Certification. Sample forms are available on the Court's website.

(3) Service and Notice

The Debtor shall serve a copy of the Motion for Entry of Discharge and a Certification of Eligibility for Discharge on the trustee. The trustee shall have 21 days from the date of filing to object to the Motion or the Certification.

(4) Closing and Reopening

If no Motion for Entry of Discharge is filed, the case may be closed without entry of a discharge after filing of the trustee's final report. If the case has been closed and the Debtor seeks entry of the discharge, the Debtor must first file a motion to reopen the case.

(5) Request for Hardship Discharge

If the Debtor seeks a discharge under 11 U.S.C. §1141(d)(5), the Debtor shall file a Motion for Hardship Discharge and a Certification of Eligibility for Discharge. The requirement to file a Certification of Eligibility for Discharge is waived if the Debtor seeking the hardship discharge is deceased and a verified statement of the Debtor's death has

been filed as required by S.D.Ind. B-1016-1. A sample Certification is available on the Court's website.

Comments

This new rule sets out the process for getting to discharge in a Sub V case. The Court is to enter discharge right after confirmation in an individual case if confirmation occurred under §1191(a). Hence the new requirement in S.D.Ind. B-3018-1 that the caption tell Clerk staff if the case was confirmed under §1191(a). Discharge entry in cases confirmed under §1191(b) is more complicated. The trustee may be involved. The debtor isn't eligible for discharge until payments have been made for at least three years. See §1192. The committee opted to mirror the process used in Chapter 12 and 13 cases. However, the form Certification of Eligibility will be different. The Sub V debtor does not have to complete a financial management course. The non-individual Sub V debtor does not have domestic support obligations. As a result of this new rule's numbering, current rules 4004-2 and 4004-3 will be renumbered 4004-3 and 4004-4, respectively.

**B-4004-~~2~~3. OBTAINING DISCHARGE AFTER CASE CLOSED FOR
FAILURE TO FILE FINANCIAL MANAGEMENT REPORT**

Comments

Rule renumbered from 4004-2 due to the addition of the new rule titled Discharge in Sub V Chapter 11 Cases.

**B-4004-~~3~~4. MODIFICATION OF DEADLINE FOR OBJECTIONS TO
DISCHARGE**

Comments

Rule renumbered from 4004-3 due to the addition of the new rule titled Discharge in Sub V Chapter 11 Cases.

B-5011-1. WITHDRAWAL OF REFERENCE

(d) Designation of Record

Along with the motion for withdrawal, the movant shall file and serve a designation of those portions of the record necessary or pertinent to the District Court's consideration of the motion. Within 14 days after service of the designation of the record, any other party may 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 copy of the docket or any portion thereof is not a proper designation. If the record designated by any party includes a transcript, 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. The Bankruptcy Court shall transmit only those documents designated under this subsection to the District Court.

Comments

Language added to subparagraph(d) to clarify that only those documents affirmatively designated as part of the appellate record by the parties shall be transmitted to the District Court.

B-6004-2. PRIVATE SALE

(b) Contents of Motion: All Chapters

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

- (1) the property to be sold;
- ~~(1)~~(2) the amount of a claimed exemption in the property;
- ~~(2)~~(3) the prospective purchaser (“Prospective Purchaser”);
- ~~(3)~~(4) the sales price and an estimate of the net proceeds to be received by the estate, including a deduction for any exemption;
- ~~(4)~~(5) a brief summary of all material contingencies to the sale;
- ~~(5)~~(6) a description of the manner in which the property was marketed for sale, and a description of any other offer to purchase;
- ~~(6)~~(7) a description of any relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;
- ~~(7)~~(8) a statement setting forth any relationship or connection the trustee or the Debtor or its insiders will have with the Prospective Purchaser or its insiders after sale consummation;
- ~~(8)~~(9) 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)~~(10) if the proposed sale seeks to sell property free and clear of liens or other interests under 11 U.S.C. §363(f), the names of the lien or interest holders.

(e) Report of Sale

~~No later than 14 days after a private sale has been completed, t~~The movant shall file a report of sale under Fed.R.Bankr.P. 6004(f)(1) within 14 days of the later of the completion of sale under this rule or the last scheduled sale date, should the transaction fail to close.

Comments

New subparagraph (b)(2) added to bring this rule into uniformity with disclosure of claimed exemption requirement of LR 6004-3(b)(2) and subparagraph (e) revised to provide a deadline by which a report of sale is to be filed, as often no such reports are filed if the sale did not close, leaving an unresolved pleading pending on the case docket.

B-6004-3. SALE BY AUCTION

(b) Contents of Motion

A Motion to Sell by auction shall identify:

- (1) the property to be sold;
- (2) the amount of a claimed exemption in the property;

(d) Report of Sale

~~No later than 14 days after an auction, the~~ The auctioneer or the party that filed the application to employ the auctioneer shall file ~~the a~~ report of sale under Fed.R.Bankr.P. 6004(f)(1) within 14 days of the later of the completion of a sale under this rule or the last scheduled sale date, should the transaction fail to close, unless the Court orders otherwise.

Comments

Subparagraph (b)(2) slightly revised to amend "claim exemption" to "claimed exemption" and subparagraph (e) revised to provide a deadline by which a report of sale is to be filed, as often no such reports are filed if the sale did not close, leaving an unresolved pleading pending on the case docket.

B-6004-4. SALE WITH PROSPECTIVE PURCHASER IDENTIFIED BUT BIDS CONSIDERED

(b) Contents of Motion to Sell with Bid Procedures

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

- (1) the property to be sold;
- ~~(2)~~ (2) the amount of a claimed exemption in the property;
- ~~(2)~~(3) the prospective purchaser (“Prospective Purchaser”);
- ~~(3)~~(4) the sales price and an estimate of the net proceeds to be received by the estate, including a deduction for any exemption;
- ~~(4)~~(5) a brief summary of all material contingencies to the sale, together with a copy of the agreement, if available;
- ~~(5)~~(6) if the proposed sale seeks to sell property free and clear of liens or other interests under 11 U.S.C. §363(f), the names of the lien or interest holders;
- ~~(6)~~(7) the executory contracts and leases proposed to be assumed or rejected as part of the sale, if any;
- ~~(7)~~(8) a description of the manner in which the property was marketed for sale, and a description of other purchase offers;
- ~~(8)~~(9) a description of any relationship between the Prospective Purchaser and its insiders and the Debtor and its insiders or the trustee;
- ~~(9)~~(10) a statement setting forth any relationship or connection the trustee or the Debtor or its insiders will have with the Prospective Purchaser after the consummation of the sale;
- ~~(10)~~(11) if a fee is proposed to be paid to the Prospective Purchaser and another bidder prevails at the sale, a statement of the conditions under which the fee would be payable and the factual basis on which the seller determined the provision is reasonable;
- ~~(11)~~(12) 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 90 days prior to the filing of the sale motion, the offers made by them, if any, and the nature of the offer;

(12)(13) _____ the bid procedures proposed for the sale;

(13)(14) _____ 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)(15) _____ 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 claims, 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.

(f) Report of Sale

~~No later than 14 days after a sale under this rule has been completed, the~~ The movant shall file a report of sale under Fed.R.Bankr.P. 6004(f)(1) within 14 days of the later of the completion of a sale under this rule or the last scheduled sale date, should the transaction fail to close.

Comments

New subparagraph (b)(2) added to bring this rule into uniformity with disclosure of claimed exemption requirement of LR 6004-3(b)(2) and subparagraph (f) revised to provide a deadline by which a report of sale is to be filed, as often no such reports are filed if the sale did not close, leaving an unresolved pleading pending on the case docket.

B-6007-1. ABANDONMENT OF PROPERTY

(b) Motion to Abandon; Service, Notice and Filing

The movant shall ~~serve~~provide the motion and a 14-day Objection Notice ~~of a motion to abandon~~ on the trustee or debtor-in-possession, the UST, all creditors, indenture trustees, and committees elected under §705 or appointed under §1102 of the Code, except that distribution may be limited in the manner prescribed by S.D. Ind. B-2002-1(c) if the motion is filed in a voluntary Chapter 7, Chapter 12 or Chapter 13 case and more than 70 days have passed since the entry of the order for relief in that chapter or the order converting to Chapter 12 or Chapter 13. Along with the motion, 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.

Comments

Subparagraph(b) revised to limit notice of abandonment motions and Objection Notices when more than 70 days have passed since entry of order of relief.

B-7007-2. CORPORATE OWNERSHIP STATEMENT TO BE FILED BY EACH NON-INDIVIDUAL PARTY TO AN ADVERSARY PROCEEDING

The Corporate Ownership Statement required to be filed by a corporation under Fed.R.Bankr.P. 7007.1 shall also be filed by each non-individual party to an adversary proceeding that is not a governmental unit.

Comments

Rule added to require filing of a Corporate Ownership Statement in response to filing an adversary proceeding.

B-9006-1. PROCEDURE FOR OBTAINING SHORTENED AND/OR LIMITED NOTICE OF NON-FIRST DAY MOTIONS

(f) Motion to Limit Notice

If expedited service on the parties required to receive a motion or notice under the Federal Rules of Bankruptcy Procedure is impractical or cost-prohibitive, the movant may also seek to limit notice by filing a separate Motion to Limit Notice. Unless otherwise directed, notice may be limited to the UST, the Debtor, the Unsecured Creditors Committee or its counsel if applicable, or if there is no Committee, the list of 20 largest unsecured creditors, any trustee serving in the case, any party that has or claims to have an interest in the property to be affected by the Underlying Motion, and all other counsel of record.

Comments

Slight addition to subparagraph(f) proposed to make clearer that limiting notice may apply to either motion or notice to have been served in an expedited fashion.

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

(e) Joinder in Other Party's Motion, Application, or Objection

A party may join in a motion, application, or objection previously filed by another party in a bankruptcy case or adversary proceeding by filing a Notice of Joinder. Unless the Court orders otherwise, a Notice of Joinder shall not be treated as a separate request for relief or require a response or objection thereto by any other party. A request to join in an adversary proceeding as a party plaintiff or defendant shall be filed as a Motion for Joinder under Fed.R.Bankr.P. 7020.

Comments

New subparagraph (e) establishes procedure for filing a Notice of Joinder in support of a previously filed pleading and the requirement to file a Motion for Joinder if seeking to be included as an adversary proceeding party. The rule's intent is that, in the event the original motion, application or objection is withdrawn, both the Notice of Joinder is moot and the joinder party's position, be it an objection or otherwise, is not reserved.

B-9013-2. CERTIFICATE OF SERVICE

(a) Filing

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

Comments

Fed.R.Civ.P. 5(d) was amended to excuse the filing of a certificate of service in certain circumstances. Since that subparagraph applies only to adversary proceedings, the reference to it in this rule is no longer appropriate and has been removed for clarity.

B-9018-1. SEALED CASES AND DOCUMENTS

(a) Filing a Case or Document Under Seal

A party seeking to file a case or document under seal shall follow the Sealed Cases and Documents procedures in the Court's ECF Administrative Policies and Procedures Manual.

(b) Termination of Seal

Five years after the order imposing the seal, unless the Court in establishing the seal has set a different date for the seal to be terminated, the Clerk shall give notice to the party that requested the seal and any party that objected to the request that the seal will be terminated if no objection is filed within 21 days of the notice. If no objection is filed, or if the Court overrules the objection, the Clerk shall terminate the seal and make the documents available. The Clerk may then dispose of the sealed records according to the archiving procedures established by the Judicial Conference.

Comments

The Court's Sealed Cases and Documents ECF Administrative Policies and Procedures Manual, which has the same effect as these local rules pursuant to S.D. Ind. B-5005-4, spells out the steps a filer must take to have a case or document sealed. The challenge has been determining when the seal can be terminated. This rule points filers to the procedure on sealing and also reminds of the importance of determining the length of the seal at the start of the process. The rule sets a default for termination of the seal which will enable the Clerk to transfer the records to archiving if appropriate.

[Involves the Judge in the decision as to who gets notice as other parties may have desired the seal; may be problematic as to seals ordered by retired judges as the successor may not be able to determine the appropriate parties for notice. No directly related national rule exists, and the uniform numbering system offers no suggestions; 9018 chosen as national rule concerns secret, confidential, defamatory, or scandalous matter.]

B-9019-1. STIPULATIONS AND SETTLEMENTS

(a) Notice

When the trustee or debtor-in-possession is required to obtain approval of a settlement or compromise ~~is required by~~under 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 Notice to the Debtor, creditors, any trustee, the UST and to any other entity as the Court may direct. 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.

(b) Chapter 13 Motion to Approve Settlement Distribution

The Debtor in a Chapter 13 case is required to report to the trustee the resolution of any matter for which a Notice of Retention and Compensation Terms under S.D. Ind. B-2014-2 was filed. The Debtor shall not disburse any settlement proceeds until consent of the trustee has been obtained. The trustee may file a Motion to Approve Settlement Distribution that discloses any amount proposed to fund the plan, any amount proposed to be paid to the Debtor, the proposed compensation to Professionals and whether that compensation is subject to Court approval. If the trustee negotiates receipt of funds sufficient to pay all claims in full, the trustee may instead file a Report to Court.

~~(b)~~(c) Adversary Proceedings

Comments

New subparagraph (b) is added to establish the requirement in Chapter 13 cases that the debtor pursuing causes of action report to the trustee upon resolution, so that the trustee can decide whether to administer the asset and which documents to file.

B-9027-1. REMOVAL

(d) Deadline to File Motion to Remand

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

Comments

New subparagraph(d) added to reflect 28 U.S.C. § 1447(c) and the Bankruptcy Court for the Northern District of Indiana's local rule requirements and to ensure that such matters do not linger on the bankruptcy court dockets when they are ripe for motion to remand back to court of original jurisdiction.

B-9029-1. LOCAL RULES: GENERAL

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

~~To the extent that any provision of the Local Rules for the United States District Court for the Southern District of Indiana (S.D.Ind. L.R.) differs from any provision of the Local Rules of the United States Bankruptcy Court for the Southern District of Indiana or the Federal Rules of Bankruptcy Procedure, that provision of the S.D.Ind. L.R. shall not apply.~~

Comments

Subparagraph (e) deleted as it was confusing and unnecessary.

B-9033-1. PROPOSED FINDINGS OF FACTS AND CONCLUSION OF LAW ISSUED BY BANKRUPTCY COURT

An objection to the proposed findings of facts and conclusions of law issued by a Bankruptcy Judge shall be filed with the Clerk in accordance with Fed.R.Bankr.P. 9033(b). When a party has properly objected under Fed.R.Bankr.P. 9033(b), for the purpose of preparing the record and identifying the issues for the District Court, the parties shall follow the procedures set forth within Fed.R.Bankr.P. 8009 by treating an objection as an appeal. In the event no objection is filed within the time specified with Fed.R.Bankr.P. 9033, the Clerk shall immediately transmit the proposed findings of facts and conclusions of law to the Clerk of the District Court for docketing and the issuance of a District Court case number.

Comments

Absence of procedure in prior cases necessitated the need for this new rule and spells out the timeline for filing of objections, if any, to Bankruptcy Judges' proposed findings and conclusions of law, and the Bankruptcy Clerk's responsibility for transmission of related pleadings to District Court.

B-9070-1. DISPOSITION OF EXHIBITS

(a) Custody During Pendency of Action

An item offered into evidence in a case other than by electronic submission shall be placed in the Clerk's custody. 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.

(d) Failure to Claim Items

The Clerk may dispose of those items not claimed by the parties within the deadline set under subparagraph (b) of this rule, after notice to the party presenting the exhibit.

(f) Disposal of Exhibit Submitted Electronically

Exhibits that may have been presented to the Court electronically but are not docketed in the case may be disposed of by the Clerk after expiration of the deadline set under subparagraph (b) of this rule.

Comments

The Court has been transitioning to use of exhibits submitted electronically before a hearing or trial. The proposed edit clarifies that this procedure for disposition of exhibits applies to tangible items. Subparagraph (d) is edited to reflect the Court's practice of providing notice before disposition. An exhibit submitted electronically and placed on the docket remains part of the Court's permanent records. Electronic exhibits not placed on the docket are subject to disposal the same as paper exhibits, but no advance notice is provided as it is presumed the presenter retained the original.