



MEMORANDUM

To: Attorneys
From: William E. Tanner, Clerk of Court
Subject: New Local Rules

May 3, 2010

The Local Bankruptcy Rules for the Middle District of Georgia have undergone a thorough revision and as such, the body of rules are being readopted in their entirety by the court effective May 3, 2010. The newly adopted and published rules will govern all practice in the court effective on that date.

A great many changes to the rules are what is referred to as technical amendments. These include renumbering of rules or subparagraphs, correction or enhancement to text to improve clarity and readability and other similar technical changes. However, there have also been some significant substantive changes which I will try to note in this document.

LBR 1007-1(e) - Filing of Payment Advices. Since the adoption of BAPCPA, payment advices have been provided by debtors directly to the trustee appointed in their individual cases in accordance with local rule. Effective with this rule adoption, payment advices now shall be filed with the Bankruptcy Court pursuant to Section 521.

LBR 2002-1(c) - Service of Certain Notices. The Court has added as one of the clerk's offices responsibilities the duty to serve orders of confirmation in Chapter 11 and Chapter 12 cases pursuant to FRBP 2002(f)(7). Counsel for debtor in these cases will no longer be ordered to serve the confirmed plan on all entities.

LBR 2002-1(e) - Subparagraph 2 of this subsection addresses the method of service in the modern times of the electronic case filing system. The additional wording added makes it clear that electronic service applies in almost all situations. However, electronic service shall not apply to the initial service of a motion or contested matter pursuant to FRBP 9014. The named respondent in a contested matter must receive service by First Class mail. Please keep in mind that if the respondent in a contested matter is the debtor, the attorney for the debtor can still receive their service copy of the matter by electronic means.

LBR 2016-1 - Compensation of Professionals. The court has added a requirement to subsection (b) that requires an application for interim compensation that the applicants make a statement describing the primary or most time consuming aspects of the case. This will aid the court in evaluating such applications.

LBR 3007-1(a) - The court has eliminated the additional response time provided to the United States for claim objections since such additional time is not supported by the Federal Rules and the court sees no reason to provide the additional response time. Under that rule the court has also eliminated the need of providing a notice of hearing when a response is filed since all objections to claims now contain a notice with a statement as to the period in which a response can be filed and as part of that notice also specifies the hearing date and time should a response be made.

LBR 3022-1(c) - The court has completely revised the procedure for completion of Chapter 11 plans for individuals. Rather than tracking substantial consummation, a new paragraph (c) has been created which provides for the closing of Chapter 11 cases with an ongoing Chapter 11 plan. It does call upon the debtor the responsibility of applying for a discharge after the completion of all payments under the plan. Substantial consummation no longer will trigger the closing of cases for individuals in Chapter 11 cases. However, substantial consummation and other similar provisions still apply to non-individual debtors in Chapter 11. Since an individual Chapter 11 case can not receive a discharge until all payments are completed, this change will allow for the bankruptcy case to be closed while the individual Chapter 11 debtor continues to make payments under a confirmed plan without the need of oversight and additional administration. The court reserves jurisdiction to reopen the case at any time to resolve any contested matters that may arise and certainly to reopen the case to evaluate the debtor's entitlement to a discharge upon the completion of all plan payments.

LBR 4001-1(a) 5 - The court has added a requirement that for relief from stay motions, certain information about the lien holder must be provided which is intended to assist the court and certainly the parties to resolve the matter through negotiation and possibly modification of the underlying obligation. This additional rule requests information recognizing certain obligations under state law in similar situations.

LBR 4001 - Automatic Termination of Stay pursuant to Section 362. In previous rules revisions the court specified that the automatic stay will not terminate after 30 days as provided under Section 362(c)(3) if a timely motion is filed to extend the stay. This rule has been eliminated and unless a debtor has a hearing and receives an extension of the stay within the first 30 days, the automatic stay will terminate upon reaching 30 days from the date of filing.

LBR 4008-1 - Reaffirmation Agreements. The court has made it very clear that in order for a reaffirmation agreement to be enforceable in this court, all requirements of Section 524 as well as the requirements of FRBP 4008 must be met. Parties are urged to review both of those provisions especially in light of the most recent requirements for the use of a cover sheet for reaffirmation agreements. Parties should also note that reaffirmation agreements need to be filed within a certain time frame and not simply entered into prior to the entry of the discharge.

LBR 5005-4 - Additional language concerning the electronic service of contested matters pursuant to FRBP 9014 have been added to this section as well to make clear that the initial motion or contested matter in many instances must be served by First Class mail and electronically. The court has also added guidelines for the proper application of electronic signatures and the responsibility to preserve original signatures on paper documents when necessary by attorneys. That new subparagraph (b) should be read carefully so that the requirements for preserving original signatures on documents can be implemented by attorneys practicing in the court.

LBR 9004-1 - A general procedure change for the court is occurring which is not heavily documented in the local rules but one will observe a subtle change when scheduling matters with the court. Matters being filed in the court will either receive a specific hearing date and all parties will be expected to appear at that hearing or matters will be noticed with a proposed date at which time objections will need to have been filed and the notice will also contain a hearing date and time when any hearing will occur if responses or objections are filed. The major procedure change for the court is that attorneys will be cautioned that if a matter is noticed with a date for filing responses or objections and no response or objection is filed, the attorney will need to be sure that an order is entered by the court prior to the hearing date. If no order is entered, the attorney for the movant or applicant will be required to appear at the appointed hearing date and time. This will allow the court an opportunity to conduct hearings and seek clarification on matters even if an interested party had not filed a response or an objection. Therefore, when such matters are noticed the attorney should place the hearing date on their calendar with appropriate follow-up procedures in place to know whether or not the hearing is being removed from the calendar. Further guidance will be forthcoming on this procedure change within the court.

I believe this outline specifies the major substantive changes and all of the other changes as stated are to improve readability, grammar and consistency in the use of terms and definitions throughout the rules.

If anyone has any questions please feel free to contact me.