

LBR 1007-1. LISTS, SCHEDULES, AND STATEMENTS

~~(a) **Number of Copies.** The number of copies of schedules and statement of financial affairs to be filed shall be the number of copies as prescribed in the Clerk's Instructions.~~

~~(b) (a) **Alphabetical Listing of Creditors.** All creditors listed in Schedules D, E and F shall be arranged in alphabetical order.~~

~~(c) (b) **Extension of Time.**~~

1. The court may, for cause shown, grant an ex parte motion for an extension of time for filing the schedules, and statements, and other documents of financial affairs required in Chapter 7, 11, 12 and 13 cases by FRBP 1007(b) to a date not less than five (5) days before the first date set for the § 341(a) meeting. If the time for filing is extended, the debtor shall serve a copy of the schedules and statement of financial affairs on the trustee not later than five(5) days before the first date set for the § 341(a) meeting.

2. Any further extension shall be granted only in accordance with FRBP 9006(b) and upon motion served by the debtor on all parties in interest.

3. Any motion for extension of time shall be made before the expiration of the period of time prescribed for filing the schedules and statement of financial affairs.

~~(d) (c) **Service of Plan Upon Creditors Added by Amendment.** If the debtor in a Chapter 13 case adds a creditor by amendment prior to the confirmation of the debtors' plan, the debtor shall immediately serve a copy of the proposed plan on the creditor.~~

~~(d) **Dismissal of Case For Failure to File Required Documents and Information.** Failure by the debtor to file the documents and information required by FRBP 1007 may result in dismissal of the case in accordance with LBR 1017-2.~~

~~(e) **Filing of Payment Advices or Other Evidence of Payment Received by Debtor from any Employer of the Debtor.**~~

~~Debtor(s) shall not file with the court payment advices as required by § 521(a) (1) (B) (iv). The debtor(s) shall deliver to the Trustee appointed in the case or to the United States Trustee if no Trustee has been appointed in the case, copies of the payment advices no later than 10 days prior to the~~

first meeting of creditors scheduled in the case. The debtor(s) shall also provide copies of payment advices to any interested party that requests this information. For purposes of this requirement, payment information is any evidence that can reasonably be used to determine the amount of income received within 60 days before the date of filing of the petition.

LBR 1014-2. VENUE - CHANGE OF DIVISION

(a) **Cases Filed In Improper Division.** Any petition filed in an improper division may be transferred by the clerk to the proper division without notice or hearing.

(b) **Cases Filed In Proper Division.** Any debtor proposing to have a case ~~handled~~ **administered** in a division that would not be the proper venue as defined in LBR 1071-1 may file a motion requesting a change of divisional venue. The motion shall be served pursuant to LBR 9004-1 and LBR 9007-1. The motion for change of divisional venue shall be filed contemporaneously with the commencement of the case.

LBR 1017-2. DISMISSAL OR SUSPENSION - CASE OR PROCEEDINGS

(a) Voluntary Dismissal of a Chapter 7 Case.

1. A motion for voluntary dismissal of a Chapter 7 case must be served pursuant to LBR 9004-1 and LBR 9007-1.
2. Prior to the voluntary dismissal of a Chapter 7 case, all administrative expenses must be paid.
3. If the Chapter 7 trustee does not consent in writing to the dismissal, the court will schedule a hearing.

(b) Voluntary Dismissal of a Chapter 12 or Chapter 13 Case Previously Converted from Chapter 7.

1. A motion by a debtor to dismiss a Chapter 12 or Chapter 13 case that was previously converted from Chapter 7 must specify the grounds for the motion.
2. A motion for voluntary dismissal of a Chapter 13 case previously converted from a Chapter 7 case must be served pursuant to LBR 9004-1 and LBR 9007-1.
3. If the Chapter 7 trustee originally appointed in the Chapter 7 case and the Chapter 13 trustee do not consent in writing to the dismissal, the court will schedule a hearing.

(c) Trustee Fee Allowable Upon Dismissal. If a Chapter 13 case is dismissed prior to confirmation of a Chapter 13 plan, or prior to any disbursement to creditors, the Chapter 13 trustee shall be allowed to retain up to \$100.00 as an administrative expense without further motion or order of the court.

(d) Voluntary Dismissal of Chapter 11 Case.

1. A debtor's motion to dismiss a Chapter 11 case shall specify the grounds for the motion.
2. The debtor shall obtain a hearing date for the motion and serve the motion for voluntary dismissal, along with a notice of hearing pursuant to LBR 9004-1.

(e) Motion by Chapter 7 Trustee to Dismiss Case for Failure to Attend the Meeting of Creditors Held Pursuant to § 341 of the Code. A motion to dismiss a Chapter 7 case by the Chapter 7 trustee for failure of the debtor to appear at the meeting of creditors pursuant to § 341 of the Code shall be

served on all entities required by FRBP 2002(a) and shall comply with LBR 9004-1 and LBR 9007-1.

(f) Dismissal For Failure to File Documents and Information Required by 11 U.S.C. § 521 and FRBP 1007. If the information and documents required by § 521 and FRBP 1007 are not filed upon the commencement of the case, the Clerk will notify the debtor and debtor's counsel that the missing information shall be filed within fifteen (15) days from the date of the notice. If the information and documents are not filed within the fifteen (15) days of the date of the notice, and the debtor has not requested a hearing during the 15 days, the bankruptcy case may be dismissed by the Court without further notice or hearing

(g) Automatic Dismissal Pursuant to § 521: Motions to Dismiss for Insufficiency of Information Required by § 521. No case shall be automatically dismissed without a written order of the court. Unless the Court has dismissed the case pursuant to LBR 1017-2(f), the court shall deem the information required to be filed by § 521 and FRBP 1007 to be sufficient unless a motion to dismiss is filed respecting the sufficiency of the information by the 45th day after the filing of the petition.

(f)(h) Effect of Dismissal on Related Adversary Proceedings and Pending Motions. After dismissal of a bankruptcy case, any pending adversary proceedings will be dismissed by the court unless the court determines that it should retain jurisdiction. All pending motions will be deemed moot unless within 15 days of the order of dismissal the movant files a request that the motion remain active pending further order of the court.

LBR 2002-1. NOTICE TO CREDITORS & OTHER PARTIES IN INTEREST

(a) Noticing of 20-Day Matters. The clerk of the Bankruptcy Court shall serve the notices required by FRBP 2002(a)(1) and 2002(a)(7). **If additional creditors are added by amendment after the commencement of the case, the attorney for the debtor shall give the notices required by FRBP 2002(a)(1) and FRBP 2002(a)(7).** The party filing any motion or application shall serve any other notice required by FRBP 2002(a).

(b) Noticing of 25-Day Matters. The party filing any motion or application shall serve any notices required by FRBP 2002(b) **including notice under FRBP 2002(b)(2) for any creditor added to the case by amendment.**

(c) Other Notices. The clerk of the Bankruptcy Court shall serve the notices required by FRBP 2002(e), 2002(f)(1), 2002(f)(2), 2002(f)(3), 2002(f)(4), 2002(f)(5), 2002(f)(6), 2002(o), 3002(c)(5), 3004, 4007(c), 4007(d), 7054(b), 8004, and 9022(a). The party filing any motion or application shall serve any other notice required by FRBP 2002 that is not otherwise specified in this or other sub-parts of this rule.

(d) Certificate of Service. The party filing any motion or application who is required by this rule to serve notices shall, upon completion of the service required by this rule, file a certificate of service with the court.

(e) Service.

1. **Whenever a pleading or other paper is filed electronically, the electronic case filing system automatically generates a notice of electronic filing at the time of the docketing.**

2. **Participation in the court's electronic filing system by receipt of a login and password provided by the court shall constitute a request for service and notice by electronic means as provided under FRBP 9036. Participants in the electronic case filing system, by possessing a login and password from the court, agree to receive notice and service by electronic means through the notice of electronic filing for notices both from the court and from other system participants, wherever located.**

3. An attorney filing a pleading or other paper electronically resulting in a notice of electronic filing shall be deemed to have served the notice on participants of the court's system and such service will be considered the equivalent of service of the pleading or other paper by first class mail, postage pre-paid. For all remaining recipients of service or notice, the filing attorney shall serve the pleading or the paper upon those recipients in accordance with applicable bankruptcy rules.

4. The following language is recommended for participants of this electronic case filing system for certificate of service purposes:

"I hereby certify that the following parties have been served with the [designate the pleading or notice]. Those not served by electronic means by the court's electronic filing system have been served as follows:"

~~(e)~~**(f)** Content of Notice. All notices ~~except those~~ notices served electronically pursuant to FRBP 9036 shall comply with the provisions of LBR 9004-1.

~~(f)~~**(g)** Matters Requiring Expedited Settings. In all cases where a party files a pleading and seeks to expedite its consideration by the court, a separate motion for expedited hearing must be filed contemporaneously with the affected pleading, containing sufficient information on its face to permit the court to determine the necessity for expedited treatment. All motions to expedite shall ~~have~~ ~~be~~ accompanied by ~~a separate certification regarding the request for emergency hearing and a proposed order sent to the court's ECF system and a certification regarding request for emergency hearing.~~ The certificate shall substantially comply with the form certificate found in the Clerk's Instructions.

~~(g)~~**(h)** Returned Notices. Notices of ~~the § 341(a) meeting of creditors from the court as generated by and mailed out of the Bankruptcy Noticing Center including notice of any orders dismissing the case, and orders of discharge entered by the court~~ shall contain a return address for the attorney representing the debtor. If the debtor is pro se, the notices will be returned to the clerk of court. If a notice is returned to debtor's attorney as undelivered, the debtor's attorney shall be responsible for

determining the correct address for the addressee on each returned notice. The debtor's attorney shall re-serve the notice and certify such service by filing a certificate of service. At the time of the certification, the debtor's attorney shall also provide the clerk with any corrected address. If corrected addresses are unavailable, counsel for debtor shall inform the clerk ~~in writing~~ **by filing an appropriate certification**, and the clerk is then authorized to remove any such address from the mailing list. If the debtor is pro se, the clerk's office will attempt to resolve any undelivered notices. If unable to locate a corrected address for a returned notice, the clerk is authorized to remove any such address from the mailing list.

~~(h)~~(i) Undeliverable Notices. If an insufficient creditor~~(s)~~ address is provided to the Court, which cannot be mailed by the National Bankruptcy Noticing Center, debtor's attorney will be notified that the address is insufficient and the Notice of the § 341(a) Meeting of Creditors for the particular creditor involved was undeliverable. The attorney shall immediately ascertain the correct address for such creditor~~(s)~~ and serve the Notice of the § 341(a) Meeting of Creditors at the correct address. The attorney shall file a Certification regarding service of such notices in a form specified in the Clerk's Instructions.

LBR 2016-1. COMPENSATION OF PROFESSIONALS

(a) Compensation Payable Upon Dismissal or Conversion of Chapter 13 Cases. Upon dismissal or conversion of a Chapter 13 case before confirmation of the debtor's plan, and prior to the chapter 13 trustee refunding any funds on hand to the debtor, the trustee shall disburse the funds ~~on hand~~ in the following priority:

1. The chapter 13 trustee shall pay any outstanding ~~unpaid portion of the~~ filing fee ~~owed to the court.~~
2. The chapter 13 trustee shall be allowed to retain up to \$100.00 as an administrative expense without further motion or order of the court.
3. (A) The chapter 13 trustee is authorized to pay from the remaining funds on hand an attorney fee of ~~\$400~~\$500, less any fee paid as disclosed in the FRBP 2016 disclosure, to the attorney for the debtor, without any further motion, application, or order of this court.

(B) If the chapter 13 trustee has cause to believe the ~~amount of \$400~~\$500 fee is inappropriate, the chapter 13 trustee shall file a request with the court to reduce the amount to be paid pursuant to this Rule.

(C) If the attorney for the debtor requests a fee in excess of ~~\$400~~\$500, the attorney shall file an attorney fee application.

(b) Applications for Interim Compensation. Each application for interim compensation shall disclose the following:

1. The amount and date of all previous fee awards.
2. An itemized statement of attorney time expended since the last fee award.
3. Total attorney time expended in the case as of the date of the current application.

LBR 3001-1. CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL

(a) **Interest in Proofs of Claim.** All claims filed shall conform with § 502 of the Code and with the applicable Federal Rules of Bankruptcy Procedure, and may not include any claim for unmatured interest. Any creditor who calculates interest by using the "add on interest" method shall rebate interest from its claim by using the pro rata method.

(b) **Electronic Filing of Claims.** Entities that file twenty (20) or more proofs of claim in a calendar year must file the claims electronically. If such entities file paper claims without a Judicial Waiver, the court will consider striking the documents. ~~**Service of Copies of Claims.** Every creditor filing a proof of claim in a Chapter 12 case shall file the original proof of claim with the court and shall serve a duplicate of the claim with all attachments on the Chapter 12 trustee.~~

(c) **Extension of Time to File.** ~~Creditors added upon the filing of an amendment adding a creditor to a bankruptcy case~~ **by amendment, that creditor will later than 60 days before the original bar date shall** be allowed 60 days from the date of the filing of the amendment ~~or by the original bar date set for the filing of claims, whichever occurs last,~~ to file a proof of claim.

(d) **Bar Date for Filing Claims in Chapter 11 Reorganization Cases.** For all bankruptcy petitions filed in Chapter 11 of the Code, the bar date for filing of proofs of claim or interest shall be 90 days from the first scheduled meeting of creditors. For cause shown, the court will consider extending the time to file proofs of claim upon the filing of an appropriate motion or request within the 90-day period.

LBR 3007-1. CLAIMS - OBJECTIONS

(a) **Response Required.** Objections to claims shall be served pursuant to LBR 9004-1 and LBR 9007-1 or LBR 2002-1(e). A respondent shall have 30 days to file a ~~written~~ response. The United States or an officer or agent thereof shall respond not later than 35 days after service of the objection.

(b) **Proposed Order.** If the respondent to an objection to claim does not file a response within a time specified herein, the objecting party shall promptly ~~send to the court~~ file a proposed E-Order adjusted to the facts alleged in the objection.

(c) **Notice of Hearing.** A respondent shall contact the Bankruptcy Court and obtain a hearing date and shall serve notice of that hearing date at the same time as the response is served. If the respondent is pro se, the clerk will issue and serve notice of the hearing date to consider the objection and response.

(d) **Notice of Time to Object.** The objecting party shall inform the respondent of the requirements of this rule by serving an appropriate notice that complies with the requirements of LBR 9007-1.

LBR 3015-1. CHAPTER 13 - PLAN

(a) **Chapter 13 Plan Forms.** All Chapter 13 plans shall substantially conform to the plan form contained in the Clerk's Instructions.

(b) **Long-Term Debt Paid Through Plan.** All Chapter 13 plans shall provide that when a pre-petition arrearage exists for claims treated pursuant to § 1322(b)(5) of the Code as of the date of the bankruptcy filing and such arrearage is four (4) monthly payments or more under the terms of the applicable note or contract, the payments which come due after the filing of the bankruptcy shall be maintained during the plan and shall be paid by the Chapter 13 trustee unless otherwise ordered by the court. The Chapter 13 trustee is authorized to disburse to the holder of such claim the payment amounts under the applicable note or contract which come due after the filing of the bankruptcy but before the confirmation of the plan. The Chapter 13 trustee is authorized to collect the percentage fee in effect at the time of the disbursement on all payments made pursuant to this rule. Such disbursements shall be made within a reasonable time after receipt of payment from the debtor unless otherwise ordered by the court. Such disbursements will be made to the creditor's address as listed in the debtor's schedules if no proof of claim has been filed by the creditor.

(c) **Length of Plan.** All Chapter 13 plans must provide for payments over a period of not less than 36 months unless the plan provides that the value of the property to be distributed under the plan on account of any claim is not less than the amount of such claim. Unless the court orders otherwise, if the dividend provided in the confirmed plan is less than 100% and is met before 36 monthly payments are made by the debtor to the Chapter 13 trustee, the debtor, in order to be eligible for a discharge under § 1328(a) of the Code, must continue to make payments until 36 monthly payments have been made or a 100% dividend is paid.

(d) **Pre-Confirmation Adequate Protection and Lease Payments.**

1. **General.** The Chapter 13 plan shall provide that § 1326(a)(1) pre-confirmation adequate protection payments are to be paid in the plan and through the Chapter 13 Trustee. The plan shall identify the creditors entitled to the payments and the amounts proposed. The debtor must immediately commence plan payments to the Chapter 13 Trustee and may not reduce payments to the Chapter 13 Trustee under § 1326(a)(1)(B)&(C) without an order of the court.

2. Payment by the Chapter 13 Trustee. The Chapter 13 Trustee is authorized to pay § 1326(a)(1) pre-confirmation payments set forth in the proposed plan and to collect the Chapter 13 Trustee's usual fee thereon without an order of the court. No payment shall be made to a creditor until a proof of claim is filed. Pre-confirmation payments shall be made to creditors within thirty (30) days of the filing of the proof of claim unless sufficient funds to make such payments have not been received by the Chapter 13 Trustee within seven (7) working days prior to the end of the thirty (30) day period. The Chapter 13 Trustee is authorized to deduct from an allowed claim the § 1326(a)(1) pre-confirmation payments made by the Chapter 13 Trustee. The deduction is made as of the date of payment.

3. If a creditor obtains an order for payments under § 1326(a)(3) and the case is dismissed prior to confirmation, the creditor shall receive from the Chapter 13 Trustee, upon dismissal of the case, any payments due and owing from funds collected by the Chapter 13 Trustee under § 1326(a)(1)(A), less the Chapter 13 Trustee's fees.

LBR 3015-2. CHAPTER 13 - MODIFICATIONS TO PLAN

A request to modify a plan pursuant to § 1329 of the Code shall be served by the proponent of the modification on the trustee and on all parties in interest affected by the modification pursuant to LBR 9004-1 and LBR 9007-1 and/or LBR 2002-1(e). For all post confirmation modifications the debtor shall prepare and file a budget of current income and expenses.

LBR 3015-3. CHAPTER 13 - CONFIRMATIONS

(a) All creditor objections to confirmation of a Chapter 13 plan shall comply with the following:

1. All creditor objections are to be filed and served 7 days prior to the first confirmation hearing held in the case unless a modification of plan has been filed prior to the confirmation hearing. If such modification is filed, the objection deadline shall be 20 days from the date of the modification.

2. FRBP 9006 shall be applicable in determining the timely filing of creditor objections.

3. The first confirmation hearing held in the case for the purposes of this rule is deemed to be the later of the hearing date set by the court and contained in the notice of the meeting of creditors pursuant to § 341 of the Code or, in the event the meeting of creditors is adjourned, the confirmation date announced at the completed meeting of creditors. **For purposes of § 1324(b) of the Code, the date of the meeting of creditors shall be the date the meeting of creditors is concluded.**

4. All ~~written~~ objections to confirmation and any request to file an objection after the deadline set above shall be served on the debtor, counsel for the debtor, and the Chapter 13 trustee.

5. Since the hearing to consider confirmation of a plan has been noticed to all interested parties, any objections to confirmation of a plan will not need to contain a notice of hearing otherwise required by LBR 9007-1.

This Local Rule is being eliminated due to the various changes to the administration of small business cases created by BAPCPA.

~~LBR 3017-2. DISCLOSURE STATEMENT - SMALL BUSINESS CASE~~

~~(a) Election to be Considered a Small Business in a Chapter 11 Reorganization Case. In a Chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election no later than 60 days after the date of the order for relief or by a later date as the court may fix, for cause.~~

~~(b) Approval of Disclosure Statement.~~

~~1. Conditional Approval. If the debtor is a small business and has made a timely election to be considered a small business in a Chapter 11 reorganization case, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with FRBP 3016. On or before conditional approval of the disclosure statement, the court shall:~~

~~A. fix a time within which the holders of claims and interests may accept or reject the plan;~~

~~B. fix a time for filing objections to the disclosure statement;~~

~~C. fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and~~

~~D. fix a date for the hearing on confirmation.~~

~~2. Application of Bankruptcy Rule 3017. If the disclosure statement is conditionally approved, FRBP 3017(a), (b), (c), and (e) shall not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying FRBP 3017(d).~~

~~3. Objections and Hearing on Final Approval. Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with FRBP 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed with the court and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code and any other entity designated by the court at~~

~~any time before final approval of the disclosure statement or by an earlier date as the court may fix. If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.~~

LBR 3019-1 CHAPTER 11 MODIFICATION TO PLAN.

Unless the Court orders otherwise, a motion to modify plan filed pursuant to § 1127 of the Code shall be served by the proponent of the modification on all parties in interest pursuant to LRR 9004-1 and LBR 9007-1 and/or LBR 2002-1(e).

LBR 4001-1. AUTOMATIC STAY - RELIEF FROM

(a) Contents of Motions for Relief from Stay. Motion seeking relief from the automatic stay as to property of the estate must specify the relief requested and include the following:

1. A description of the security interest(s) claimed by the creditor in the subject property ("collateral").
2. The creditor's estimate of value of the collateral and the basis of that valuation.
3. A statement of the indebtedness claimed to be due and owing with an itemization showing principal and advances, accrued interest, attorney's fees, and costs.
4. A statement of the amount of any other secured claims against the property (if known), and whether any such claim is superior or inferior to the movant's claim.
5. If relief is sought pursuant to § 362(d)(1) of the Code for cause, including lack of adequate protection, a factual statement of the grounds for such relief.
6. Motions seeking relief under § 362(d) of the Code, shall comply with the requirements of LBR 9004-1(a)1 and shall include a notice of hearing pursuant to LBR 9004-1(c)6.
7. Relief from stay allowed pursuant to § 1301(d) can only be granted by order of the court.

(b) Agreements Providing for Relief from the Automatic Stay or for the Provision of Adequate Protection. All motions for approval of an agreement to provide adequate protection, for the modification or termination of the stay provided in § 362 of the Code, for the use of cash collateral, or for the approval of an agreement between the debtor and an entity that has a lien or interest in property of the estate pursuant to which the entity consents to the creation of a lien senior or equal to the entity's lien or interest in such property shall be served on or consented to by the following entities:

1. In a Chapter 11 or a Chapter 9 case, any committee appointed under the United States Bankruptcy Code or

the authorized agent for the committee, or, if no committee has been appointed, the 20 largest unsecured creditors contained in the list filed pursuant to FRBP 1007(d), the trustee, any individuals or entities requesting notices pursuant to FRBP 2002(I), and any other individuals or entities that the court may direct.

2. In Chapters 7, 12 and 13, all agreements, as set out above, must be consented to by the trustee appointed in the case, unless the trustee has **been served with agreement and the trustee has** expressly abandoned the asset, **filed a report of no assets in a Chapter 7 case**, or indicated in writing that the trustee has no opposition to the motion. No further service on any other entity shall be required unless otherwise ordered by the court.

(c) Payment of Secured Claims after Motion for Relief is Granted or Collateral Surrendered. In a Chapter 13 case, after a motion for relief from stay has been granted, or after confirmation of a plan or a modified plan that provides for surrender of secured collateral, the Chapter 13 trustee is authorized, following written notice to any such creditor, to suspend payments on any claim filed by such creditor. Actual possession of the collateral by the creditor is not a prerequisite for the application of this rule. The creditor may reinstate its right to receive payment on the claim by notifying the Chapter 13 trustee in writing, with a copy to the court, that it believes it is entitled to payment under the plan, and the creditor furnishes an accounting of all proceeds, if any, received from the sale of the collateral.

(d) Ex Parte Relief from Stay to Obtain Possession of Certain Uninsured Collateral.

1. Except in Chapter 11 cases, if collateral securing a claim, including property which is the subject of a lease, is a motor vehicle, trailer, boat, or an airplane, and if there is a contractual obligation by the debtor to provide collision and comprehensive insurance and the same is not in effect, then the creditor may file with the Bankruptcy Court a motion for ex parte relief from the stay of pursuant to § 362(f) of the Code to obtain possession of the collateral or leased property.

2. The Bankruptcy Court may, in its discretion, apply this rule to a Chapter 11 case.

3. Any motion for ex parte relief from the stay under this rule shall be verified and shall:

A. Include the following:

(1) A description of the collateral or leased property;

(2) A statement of the amount of the claim and the basis on which the claim is secured;

(3) An affidavit setting forth the basis on which the moving party believes that the collateral or leased property is not insured with full comprehensive insurance;

(4) A statement that the moving party or its attorney has given or attempted to give oral notice to the debtor's attorney or the debtor, if the debtor is not represented, and to the case trustee, that the motion is being filed, and;

(5) A statement specifying the failure, if any, of the debtor to produce proof of insurance at the time of the meeting of creditors pursuant to § 341 of the Code as required by LBR 4070-1.

B. Be accompanied by a proposed order which shall provide that:

(1) The debtor or trustee is prohibited from using the collateral or leased property unless and until adequate evidence of full collision and comprehensive insurance is presented to the movant or movant's counsel;

(2) The debtor or trustee, whichever is in actual physical possession of the collateral or leased property, shall notify the movant or movant's counsel of the location of the collateral;

(3) The debtor or trustee, whichever is in

actual physical possession of the collateral or leased property, shall surrender it to the movant within 72 hours, unless within that time the movant or movant's counsel is provided with adequate evidence of collision and comprehensive insurance or, the debtor or trustee requests a hearing concerning same;

(4) The movant is authorized to take physical possession of collateral or leased property required to be surrendered under this rule, and to hold same, at movant's risk, provided that the movant may not dispose of the collateral or leased property unless and until the automatic stay is modified, terminated or expires as a matter of law and provided that, if the debtor provides adequate evidence of full collision and comprehensive insurance prior to the expiration or termination of the automatic stay, then the movant must return the property to the debtor;

(5) The movant or movant's counsel shall serve copies of the motion and proposed order promptly on the debtor, the debtor's attorney, and the trustee, and shall provide telephonic notice to the debtor's attorney and, if the trustee is in actual physical possession of the property, to the trustee.

LBR 4004-3. GRANT OF DISCHARGE

The court will delay entry of the order of discharge as provided by FRBP 4004(c)(2) for the initial 30 days and will grant only one additional motion filed within the 30 days seeking an additional delay of the entry of the order of discharge to a date certain.

LBR 4008-1. REAFFIRMATION

~~If a reaffirmation agreement is filed by a debtor who was not represented by an attorney, the court will set a hearing to determine if the agreement should be approved in accordance with § 524(c)(6) of the Code.~~

In any case commenced on or after October 17, 2005, no reaffirmation agreement will be enforceable unless it complies with the following:

- (1) A reaffirmation agreement shall include a certification by debtor's attorney if the attorney assisted in the negotiation of the reaffirmation agreement. If the certification indicates that in the attorney's opinion the reaffirmation agreement will not create an undue hardship on the debtor, the agreement will be enforceable, and
- (2) All disclosures prescribed by § 523 shall be contained in the reaffirmation agreement, and
- (3) If a reaffirmation agreement does not contain a certification from debtor's attorney or the attorney indicates that the agreement will create an undue hardship on the debtor, the agreement is not enforceable unless the court approves the agreement. The debtor or creditor must file a separate motion for court approval. Any such motion must be filed prior to the entry of the order of discharge. The court, after a hearing, will issue an appropriate order on the reaffirmation agreement.
- (4) No reaffirmation agreement filed after the entry of the order of discharge shall be enforceable unless the agreement was entered into prior to the discharge and contains the certificate of the debtor's attorney indicating that the reaffirmation agreement will not create an undue hardship on the debtor.

We will be eliminating LBR 5005-2 regarding paper and numbers of copies.

~~LBR 5005-2. FILING PAPERS - NUMBER OF COPIES~~

~~—All documents with the exception of the petition and schedules required by FRBP 1007 shall be filed as a single original. No other additional copy should be tendered for filing. The original petition and the schedules shall be governed by LBR 1007-1.~~

LBR 5005-4. ELECTRONIC FILING

(a) Filing and Transmittal of Pleadings, Complaints, Petitions, and Other Documents by Electronic Means Utilizing the Court's Electronic Case Filing System.

The court will accept for filing documents submitted, signed or verified by electronic means that comply with the procedures established by the court and published by the clerk. Electronic transmission of a document to the electronic case filing system consistent with these rules, together with the transmission of a notice of electronic filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this court, and constitutes entry of the document on the docket kept by the clerk under FRBP 5003.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. In the case of documents first filed in paper form, they will be converted to electronic form and the electronic document will be the official document. Documents filed electronically are deemed filed at the date and time stated on the notice of electronic filing from the court and the filing date of any paper filings is the date that the paper is received.

Filing a document electronically does not alter the filing deadline for that document. Electronic filings must be completed in the court's system before midnight in order to be considered timely filed that day.

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under FRBP 5003 and FRBP 9021. All signed orders will be filed electronically by the court or court personnel. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

The user login and password required to submit documents to the electronic case filing system serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of FRBP 9011, the Federal Rules of Bankruptcy Procedure, the Local Rules of this court, and any other purpose for which a signature is required in connection with the proceedings before the

court.

Attorneys admitted to the Bar of this court (including those admitted *pro hac vice*), United States Trustees and their assistants, private trustees, and others as the court deems appropriate, **must** register as Filing Users of the court's electronic case filing system and must file all documents by use of the court's electronic filing system. Registration is in a form prescribed by the clerk. A Judicial Waiver may be requested by any attorney. The procedure for Judicial Waiver can be found in the Clerks Instructions.

A party to a pending action or an individual or entity that files documents with the court frequently as determined by the clerk and who is not represented by an attorney may register as a Filing User in the electronic case filing system. Registration will be in the form prescribed by the clerk.

Registration of the Filing User constitutes:

- (1) Waiver of the right to receive notice by first class mail and consent to receive notice electronically; and
- (2) Waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under FRBP 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under FRBP 9022.

(b) Receipt of Facsimile Filings. Subject to requirements of this rule, a pleading, complaint, petition or other document to be filed with the court may be accepted as timely filed by transmission to the court through a facsimile machine. No facsimile pleading or document will be accepted or deemed filed without prior approval.

(c) Approval of Facsimile. The pleading, complaint, petition or other document to be filed must be authorized to be received for filing by a judge of this court, the clerk of the court, or by the clerk's designee. Such authorization must be obtained prior to the sending of the document and must be based on a showing of time critical need and that the filer is unable to gain access to the court's Electronic Case Filing System.

(d) Procedure for Filing Facsimile Documents. The facsimile copy sent to the court must include (1) a cover sheet that includes a brief statement of the time critical

status of the pleading, complaint, petition or other document, (2) the reason the original cannot be filed timely and, (3) the identification of the court individual authorizing its receipt. This cover sheet will be filed with the pleading in the electronic case file. The party sending the facsimile document is solely responsible for insuring that it is fully and accurately received. The docketing of the document will reflect that it is a facsimile document, the name of the court employee who authorized the receipt of the document and the name of the attorney or other individual who sent the document.

(e) **Conversion of the Faxed Documents.** The pleading, complaint, petition or other document submitted by facsimile will be converted to an electronic image by the court and the electronic image will be the official record of the document.

LBR 5081-1. FEES - FORM OF PAYMENT

Registered users of the court's electronic filing system shall pay all filing fees through the Pay.Gov system as set out in the Clerk's Instructions. All other fees shall be paid in cash or by cashiers check, money order, or check on the account of an attorney of record. No personal check will be accepted.

LBR 9004-1. PAPERS DOCUMENTS AND PLEADINGS - REQUIREMENTS OF FORM

(a) Multiple Requests for Relief.

1. Motions for relief from stay may not be combined with other forms of relief, except those allowed by §§ 362 and 1205 of the Code. Motions for relief from stay allowed by § 1301 may be combined with motions pursuant to § 362.
2. Objections to confirmation of a Chapter 13 plan may not be combined with other requests for relief.

(b) Waiver of Requirements of § 362(e)

Any waiver of the 30-day requirement of § 362(e) of the Code by the movant shall be recited in the motion and, set out in the title of the motion.

(c) Notices - Form. All notices served shall substantially conform to the following directives:

1. Method of Service. Every notice shall be set out as a separate document from any associated pleading except that a certificate of service may be combined with the notice. The notice may be served separately. If served with associated pleading, the notice shall be the first page or pages of the service packet. However, The notice may be combined with a short pleading if both can be contained on a single page.
2. Designated Authority for a Notice. The notice shall contain language that identifies the authority of the sender for originating the notice by indicating whether the notice is being sent by direction of the court or pursuant to a Local Bankruptcy Rule, Federal Rule of Bankruptcy Procedure, or the Bankruptcy Code. The appropriate citation for any rule or code § shall be specified in the notice.
3. Identity of Sender and Court. The notice shall clearly identify the sender by name, address, and telephone number. The notice shall also set out the name, mailing address, and phone number for the clerk's office.
4. Required Notice Caption. Each notice shall be

captioned as it appears on any associated pleading or petition and shall substantially comply with the requirements of FRBP 9004(b).

5. Mandatory Language.

a. Notice of Motion or Objection Other Than Objections to Claims. Unless a hearing is specifically required for the matter being noticed, notice and an opportunity for hearing as contemplated by LBR 9007-1 may be accomplished by the inclusion of the following language presented conspicuously in the notice and fully capitalized:

____{Movant}____ HAS FILED PAPERS WITH THE COURT TO [relief sought in motion or objection].

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WANT THE COURT TO [relief sought in motion or objection], OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE [motion] [objection], THEN YOU OR YOUR ATTORNEY MUST FILE WITH THE COURT A WRITTEN REQUEST FOR A HEARING ON OR BEFORE _____ [SEE (c)7 BELOW].

IF YOU MAIL YOUR REQUEST TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE DATE STATED ABOVE.

ANY REQUEST FOR A HEARING MUST ALSO BE MAILED TO THE MOVING PARTY AND UPON ALL OTHER PERSONS INDICATED ON THE CERTIFICATE OF SERVICE ATTACHED TO THIS PLEADING.

IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY DECIDE THAT YOU DO NOT OPPOSE THE RELIEF SOUGHT IN THE MOTION OR OBJECTION AND MAY ENTER AN ORDER GRANTING THAT RELIEF.

b. Notice of Objections to Claims. The following language shall be presented conspicuously in the notice of objection to claims and fully capitalized:

{Objecting Party} HAS FILED AN OBJECTION TO YOUR CLAIM IN THIS BANKRUPTCY CASE.

YOUR CLAIM MAY BE REDUCED, MODIFIED OR ELIMINATED.
YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WANT THE COURT TO ELIMINATE OR CHANGE YOUR CLAIM, THEN YOU OR YOUR ATTORNEY MUST FILE WITH THE COURT A WRITTEN RESPONSE TO THE OBJECTION ON OR BEFORE _____ [*SEE (c)7 BELOW and LBR 3007-1*]. YOU MUST CONTACT THE BANKRUPTCY COURT AND OBTAIN A HEARING DATE AND SERVE NOTICE OF THAT HEARING DATE AT THE SAME TIME AS THE RESPONSE IS SERVED. IF YOU ARE NOT REPRESENTED BY AN ATTORNEY, THE COURT WILL ISSUE AND SERVE NOTICE OF THE HEARING DATE TO CONSIDER THE OBJECTION AND RESPONSE.

IF YOU MAIL YOUR RESPONSE TO THE COURT FOR FILING, YOU MUST MAIL IT EARLY ENOUGH SO THE COURT WILL RECEIVE IT ON OR BEFORE THE DATE STATED ABOVE.

ANY RESPONSE MUST ALSO BE MAILED TO THE OBJECTING PARTY AND UPON ALL OTHER PERSONS INDICATED ON THE CERTIFICATE OF SERVICE ATTACHED TO THIS PLEADING.

IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY DECIDE THAT YOU DO NOT OPPOSE THE OBJECTION TO YOUR CLAIM.

6. Notice of Hearing. If a hearing is required to be held concerning any matter other than one provided for under LBR 9007-1(c), the notice of hearing shall be served with the motion on all interested parties and shall include the following language presented conspicuously in the notice:

 {Movant} HAS FILED PAPERS WITH THE COURT TO [relief sought in motion].

YOUR RIGHTS MAY BE AFFECTED. YOU SHOULD READ THESE PAPERS CAREFULLY AND DISCUSS THEM WITH YOUR ATTORNEY, IF YOU HAVE ONE IN THIS BANKRUPTCY CASE. (IF YOU DO NOT HAVE AN ATTORNEY, YOU MAY WISH TO CONSULT ONE.)

IF YOU DO NOT WANT THE COURT TO [relief sought in motion], OR IF YOU WANT THE COURT TO CONSIDER YOUR VIEWS ON THE [motion], THEN YOU AND/OR YOUR ATTORNEY MUST ATTEND THE HEARING SCHEDULED TO BE HELD ON (date) , (year), AT _____a.m./p.m. IN COURTROOM _____, UNITED STATES BANKRUPTCY COURT, [*INSERT HERE THE COURT'S STREET ADDRESS*].

IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY DECIDE THAT YOU DO NOT OPPOSE THE RELIEF SOUGHT IN THE MOTION AND MAY ENTER AN ORDER GRANTING THAT RELIEF.

7. Notice Period. The party preparing the notice shall insert the appropriate deadline for response that is applicable to the motion filed. Unless a rule specifies otherwise, the time allowed shall be 20 days from the date of the issuance of the notice.

LBR 9004-2. CAPTIONS - ~~PAPERS,~~ GENERAL

(a) **Chapter and Judge Assignment in Caption.** In all pleadings, the caption must indicate the chapter of title 11 in which the case is filed including the initials of the judge assigned to the case.

(b) **Relief Sought Stated in Caption.** All pleadings shall, within their title, specifically designate the relief sought. Substantial variance between the title of a pleading and the relief sought in the body of the pleading may result in dismissal of the pleading or denial of the relief by the court. The designation of "motion" without further description is not sufficient.

LBR 9011-1. ATTORNEYS - DUTIES

(a) Attorney Leaves of Absence.

1. Attorneys practicing in the Bankruptcy Court for the Middle District of Georgia are expected to be available to personally represent the interests of their clients in matters before the court. Leaves of absence will not be granted by the court. If requested, the court will make reasonable efforts to accommodate an attorney's absence for personal or professional reasons provided compliance is shown.

2. All requests for leave accommodations will be by letter delivered to the clerk of this court. A notice of conflict or other such notice as may be required or allowed by Georgia State Bar Rules will be acceptable provided that the notice must meet all the requirements of this rule. The request shall specify the inclusive dates covered and shall include a list of all cases involving counsel in which a hearing, meeting of creditors pursuant to § 341 of the Code, FRBP 2004 examination, or other discovery examination has been scheduled during the leave period and the name of the judge handling the matter. If the matter scheduled is contested, the name, address and telephone number of opposing counsel must also be disclosed. It is permissible to recruit substitute counsel to appear, provided substitute counsel is aware of the circumstances of the case and can adequately represent the client's interest in such hearing. If substitute counsel has been recruited, the request for leave shall note the name, address, and telephone number of substitute counsel for each matter.

3. In the event substitute counsel is not available, counsel shall file a motion for continuance in each scheduled hearing and attach a copy of the motion as an exhibit to the leave request. Unless all parties consent to the granting of the motion for continuance, a hearing on any such motion must be scheduled before the beginning of the leave period, with adequate notice of the hearing to the trustee and other parties in interest involved in the contested matter and to other such parties as directed by the court.

4. Subject to the provisions of paragraph 5 below, if a notice scheduling a hearing during a period in which the attorney is absent is issued, the court will make reasonable efforts to advise opposing counsel and/or the trustee and reschedule the hearing.

5. In the event an emergency or urgent matter requires that a hearing be conducted during the period of the attorney's absence, the court retains discretion to schedule a hearing despite the absence. Accordingly, all requests for leave accommodations must be accompanied by a designation of another member of the bar of this court who has agreed to be available to respond to such an emergency.

6. Counsel must update the above disclosures immediately upon any change of circumstances that occurs after the date of counsel's request.

(b) Attorney Bar Number. Each attorney shall include the attorney's state bar number on all documents filed with the court. The state bar number shall be placed on the document in immediate proximity to the attorney's signature.

LBR 9013-1. MOTION PRACTICE

(a) **Proposed Order.** Any motion which may be granted without a hearing that is ~~tendered to the clerk for filing~~ **filed** shall **have** a proposed order bearing a title which describes relief granted **sent as an E-Order to the court's electronic filing system.** If the motion requests alternative relief as allowed under LBR 9004-1(a), the order must dispose of all matters raised in the motion. If a hearing is held on the motion **and the proposed order is no longer appropriate to the outcome of the hearing,** the movant shall **upload an appropriate order at the earliest opportunity.**

(b) **Citation of Authority.** All motions should indicate applicable code sections or FRBP which affect the granting or denial of the relief which is sought.

(c) **Notice of Motion.** All motions filed pursuant to this Rule shall be accompanied by a notice that substantially complies with the requirements of LBR 9004-1(b).

LBR 9013-3. CERTIFICATE OF SERVICE - MOTIONS

(a) In all motions, briefs and other ~~papers~~ documents filed with the court when notice to the parties in interest is required under the FRBP or the Bankruptcy Code, or in which the relief requested may adversely affect a party in interest, must contain a certification of service. The certificate of service shall indicate specifically the parties served (including their address), the method of service, and the date of service, and shall be signed by an attorney unless the party filing the certificate is pro se. ~~Failure to include a certificate of service to proper parties or opposing counsel or to otherwise fail to comply with this rule may cause the court to deny the relief requested.~~

(b) If a certificate of service is not filed as required by this rule, the clerk shall send notice to the filing party and give 15 days from the date of the notice for the certificate to be filed. If the certificate is not filed within the 15 days and the filing party within the 15 days does not request relief from the requirements of this rule, the motion, brief or other paper will be dismissed or stricken without further notice or hearing.

LBR 9014-1. CONTESTED MATTERS

~~(a) Applicability to Contested Matters. FRBP 7026 will not apply to contested matters unless, upon request by a party in interest, the court orders otherwise.~~

~~(b) Evidentiary Hearings. Evidentiary hearings will be held in contested matters at the first appearance of the contested matter before the court. If time does not allow for the hearing to be completed, it will be continued by the court to a date specially set for the purpose of completing the hearing.~~