



## MEMORANDUM

**To:** Bankruptcy Practitioners, Middle District of Georgia  
**From:** Kyle George, Clerk of Court  
**Subject:** Proposed Change to LBR 9004-1 Combined Motions August 8, 2017

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1. We have been asked in the past if it is possible to combine motions for relief from stay and co-debtor relief into the same filing. Our current Local Rule 9004-1 specifically says that motions for relief from stay allowed by §1301 may be combined with motions pursuant to §362.
2. As a practical matter, however, this practice was discouraged because attorneys typically would not file both the Notice of Hearing required for motions for relief from stay (along with the appropriate certificate of service) and the Notice of Motion (along with the appropriate certificate of service) required for motions for co-debtor stay relief. Some attorneys would file both motions but only one notice. Unfortunately, this is an instance of “one size does not fit all” because both motions have their own distinct noticing and service requirements.
3. Recently, however, an attorney filed a combined motion along with both appropriate sets of notices and certificates of service. When we analyzed the filing, we could find nothing improper with the way in which it was filed and allowed the combined motion to proceed. I then brought up the issue with the judges at the May 2017 judges meeting and they agreed that we should clarify the local rule language to ensure attorneys are aware of the requirement to file the appropriate notices and certificates of service. The recommended language is added to LBR 9004-1(a)(1) as noted in red below.
4. Because we are proposing a modification to the local rule, I was asked by the judges to also clarify the language in the paragraph in the notice forms addressing service requirements and time lines. We have modified for greater clarity the original language of the notice as indicated in red in the forms.
5. If you have any comments or suggestions please send them to me via email no later than September 8, 2017. My email address is [Kyle\\_George@gamb.uscourts.gov](mailto:Kyle_George@gamb.uscourts.gov). Your assistance in this matter is greatly appreciated.

## **LBR 9004-1. 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. Motions for relief from stay allowed by § 1301 may be combined with motions pursuant to § 362. **If motions are combined, the filing must contain the appropriate notice for each type of motion filed as set forth in LBR 9004-1(c)(5)(A) (Notice of Motion), LBR 9004-1(c)(5)(B) (Objection Other Than Objections to Claims), or LBR 9004-1(c)(6) (Notice of Hearing on All Other Matters).**

(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) 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 an 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 section shall be specified in the notice.

(3) Identity of Sender and Court. The notice shall clearly identify the sender by name, address, email 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) The language described below in LBR 9004-1(c)(5)(B) shall be used in events not specifically requiring a hearing (“Negative Notice” events) in the Court’s electronic case filing system. A listing of all current Negative Notice events and events that require a hearing can be found in the Clerk’s Instructions.

**(Remainder of page intentionally left blank – the noticing form is on the next page)**

(B) 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:

NOTICE OF MOTION

(Movant) HAS FILED DOCUMENTS WITH THE COURT TO [relief sought in motion or objection].

**YOUR RIGHTS MAY BE AFFECTED. You should read these documents 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 not served with this notice in accordance with the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, a copy of the motion [or other type of pleading] may be obtained upon written request to counsel for the Movant (or Objecting Party) (identified below) or at the Clerk's office.**

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 shall file with the court a written objection or response on or before **[Enter date from the Court's Hearing Scheduler program (CHS) found at [www.gamb.uscourts.gov](http://www.gamb.uscourts.gov)]. If you are receiving this notice by mail, you may add 3 days to the response date stated above, in accordance with FRBP 9006(f).** The objection or response should be sent to:

[Clerk, U. S. Bankruptcy Court  
Middle District of Georgia  
P. O. Box 1957  
Macon, Georgia 31202]  
478-752-3506

or

[Clerk, U. S. Bankruptcy Court  
Middle District of Georgia  
P. O. Box 2147  
Columbus, Georgia 31902]  
706-649-7837

**If an objection or response is filed, a hearing on the [motion or objection] shall be held on:**

**[Date of Scheduled Hearing] at [Time] at the [Location/Address].**

If you mail your response or objection to the court for filing, you shall send it early enough so the court will **receive** the objection or response on or before the response date stated above.

Any response or objection shall also be served on the movant.

**If you or your attorney does 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 relief.**

This notice is sent by the undersigned pursuant to [Enter here the Local Rule, Federal Rule, or other legal authority for issuing this notice.]

Dated this \_\_\_\_\_

[Attorney Information]

(C) Notice of Objections to Claims. The following language shall be presented conspicuously in the notice of objection to claims:

NOTICE OF OBJECTION TO CLAIM

[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 documents 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 shall file with the court a written response to the objection on or before **[Enter date from the Court's Hearing Scheduler program (CHS) found at [www.gamb.uscourts.gov](http://www.gamb.uscourts.gov)].** *If you are receiving this notice by mail, you may add 3 days to the response date stated above, in accordance with FRBP 9006(f).* The objection or response should be sent to:

[Clerk, U. S. Bankruptcy Court  
Middle District of Georgia  
P. O. Box 1957  
Macon, Georgia 31202]  
478-752-3506

or

[Clerk, U. S. Bankruptcy Court  
Middle District of Georgia  
P. O. Box 2147  
Columbus, Georgia 31902]  
706-649-7837

**If a response is filed, a hearing on the objection to your claim shall be held on:**

**[Date of Scheduled Hearing] at [Time] at the [Location/Address].**

If you mail your response to the court for filing, you shall send it early enough so the court will **receive** the response on or before the response date stated above.

Any response shall also be served on the objecting party.

**If you or your attorney does not take these steps, the court may decide that you do not oppose the objection to your claim.**

This notice is sent by the undersigned pursuant to [Enter here the Local Rule, Federal Rule, or other legal authority for issuing this notice.]

Dated this \_\_\_\_\_

[Attorney Information]

(6) Notice of Hearing on All Other Matters. 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:

NOTICE OF HEARING

(Movant) HAS FILED DOCUMENTS WITH THE COURT TO [relief sought in motion or objection].

**YOUR RIGHTS MAY BE AFFECTED. You should read these documents 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 not served with this notice in accordance with the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure, a copy of the motion [or other type of pleading] may be obtained upon written request to counsel for the Movant (or Objecting Party) (identified below) or at the Clerk's office.**

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 or your attorney shall attend the hearing scheduled to be held on

**[Date of Scheduled Hearing] at [Time] at the [Location/Address]. [Enter date from the Court's Hearing Scheduler program (CHS) found at [www.gamb.uscourts.gov](http://www.gamb.uscourts.gov)].**

**If you or your attorney does 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 relief.**

This notice is sent by the undersigned pursuant to [Enter here the Local Rule, Federal Rule, or other legal authority for issuing this notice.]

Dated this \_\_\_\_\_

[Attorney Information]