

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

**(a) Noticing of FRBP 2002(a) Matters.** The Clerk of Court shall serve the notices required by FRBP 2002(a)(1), and 2002(a)(7), and 2002(a)(8). 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 2002(a)(7), and 2002(a)(8) to any creditor added. The party filing any motion or application shall serve any other notice required by FRBP 2002(a).

**(b) Noticing of FRBP 2002(b) Matters.** The party filing any motion or application shall serve any notices required by FRBP 2002(b).

**(c) Other Notices.** The Clerk of 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(f)(7), 2002(f)(9), 2002(f)(10), 2002(f)(11), 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.

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**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 in the following priority:

1. The Chapter 13 Trustee shall pay any unpaid portion of the filing fee;
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 ~~\$700~~ 800, 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 ~~\$700~~ 800 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 ~~\$700~~ 800, 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 or that there has been no prior award;
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;
4. A statement that describes the primary or most time consuming aspects of the case.

**(c) Service of Applications for Interim Compensation.**

Applications for Interim Compensation shall be served on the interested parties as follows:

1. Applications for Interim Compensation of one thousand dollars or less shall be served upon the debtor and any trustee appointed in the case, and when required, upon the United States Trustee.
2. All Applications for Interim Compensation that exceed one thousand dollars shall be served upon all creditors in the case in addition to the debtor, any trustee appointed in the case, and when appropriate, the United States Trustee.
3. All applications shall be accompanied by the appropriate notice as required by these rules.

**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.~~

**(a) Filing and Service of Chapter 13 Plans.** The debtor shall file the initial Chapter 13 plan at the time of the filing of the petition whenever possible. If a Chapter 13 plan is not filed with the petition, it shall be filed within the time allowed by FRBP 3015(b). Any plan not filed with the petition shall be served by the debtor on all interested parties in the case. The debtor shall file with the court a certificate of service immediately thereafter showing that the Chapter 13 plan has been served.

**(b) Mandatory Chapter 13 Plan Form.**

1. All Chapter 13 debtors, as well as the trustee and holders of secured and unsecured claims, shall use the standard Chapter 13 plan form contained in the Clerk's Instructions when proposing a plan pursuant to 11 U.S.C. Sections 1301 or 1329 (a).

2. The language of the standard plan shall not be altered except to insert text in designated spaces, to expand the tables to include additional claims, or to change the title to indicate the Chapter 13 plan is a modified plan. The plan proponent is not prohibited from proposing additional or different plan provisions including but not limited to additional or different plan provisions specifying that any of the standard provisions of the Chapter 13 plan will not be applicable in a particular case. Any such deviations from the plan form must be made a part of the special provision section of the plan and shall be limited to that section only. Any plan provisions that vary from the standard plan form and are not contained in the special provision section are hereby deemed void and shall have no binding effect as part of any confirmable plan.

**(bc) 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) as of the date of the bankruptcy filing and such arrearage is four 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 shall 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.

**(cd) Length of Plan.** All Chapter 13 plans shall 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), shall continue to make payments until **the earlier of** 36 monthly payments have been made or a 100% dividend has been paid.

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

1. General. The Chapter 13 plan shall provide that § 1326(a)(1) pre-confirmation adequate protection and lease payments are to be paid through the Chapter 13 Trustee. The plan shall identify the creditors entitled to the payments and the amounts proposed. The debtor shall immediately commence plan payments to the Chapter 13 Trustee and may not reduce payments to the Chapter 13 Trustee under § 1326(a)(1)(B) and (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 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 working days prior to the end of the 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 4001-1. AUTOMATIC STAY - RELIEF FROM**

**(a) Contents of Motions for Relief From Stay.** A motion seeking relief from the automatic stay as to property of the estate shall specify the relief requested and include the following:

1. A description of the security interest(s) claimed by the movant in the subject property ("collateral").
2. The movant'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 fees, and costs.
4. A statement of the amount of any other secured claims against the collateral (if known), and whether any such claim is superior or inferior to the movant's claim.
5. When the relief requested is based upon a security interest in residential real property, a statement of the name, address, and telephone number of the individual or entity who shall have full authority to negotiate, amend, and modify all terms of the security instrument as provided in O.C.G.A. § 44-14-162.2(a) et seq..
6. If relief is sought pursuant to § 362(d)(1) for cause, including lack of adequate protection, a factual statement of the grounds for such relief.
7. Motions seeking relief under § 362(d) 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).
8. 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, 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 require the service on or the consent of the following entities:

1. In a Chapter 11 or a Chapter 9 case, any committee appointed by the United States Bankruptcy Trustee 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(g), and any other individuals or entities that the Court may direct.

2. In Chapters 7, 12, and 13, all agreements, as set out above, require the consent of the Trustee appointed in the case, unless the Trustee has been served with the 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. After liquidation of the collateral 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 leased property, 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



Court a motion for ex parte relief from the stay pursuant to § 362(f) 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 in accordance with FRBP 9011(e) 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 movant believes that the collateral or leased property is not insured with full collision and comprehensive insurance;

(4) A statement that the movant 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 § 341(a) Meeting of Creditors 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 the movant's risk. The movant shall not dispose of the collateral or leased property unless and until the automatic stay is modified, terminated, or expires as a matter of law. 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 shall 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.

**(e) Negotiation of Modifications to Mortgages on Residential Real Estate and the Automatic Stay.** The stay as provided under § 362 of the United States Bankruptcy Code shall not operate to prevent debtors and creditors from voluntarily re-negotiating the terms an existing mortgage on residential property in a Chapter 13 case in this court. The debtor or creditor are free to decline entering into any such negotiations and are empowered to terminate the negotiations at any time invoking the full protection of the stay under § 362.

**(f) Automatic Termination of the Stay Pursuant to Section 362(c)(3).** Upon the filing of a motion by a party in interest pursuant to Section 362(c)(3)(B), the court hereby authorizes the extension of the stay until the court enters a final order on the motion. The notice of the motion shall be deemed completed upon service on all parties in interest, and said notice shall be prepared, filed, and served

pursuant to LBR 9004-1(c)(5). A party at interest may request an expedited hearing at any time following service of the motion.

## **LBR 4003-2. LIEN AVOIDANCE**

Motions to avoid liens under § 522(f) shall be served with a notice to respond that complies with requirements of LBR 9004-1. The motion shall be served pursuant to LBR 9007-1 or LBR 2002-1(e). In Chapter 13 cases, the debtor may propose to avoid liens in the Chapter 13 plan. The plan shall specify the creditors **by name** whose liens are affected by such provisions in the plan **and such provisions shall only apply to those liens that can be avoided under Section 522(f). Any other liens other than those that are voidable under Section 522(f) shall not be included in such lien avoidance provisions in the Chapter 13 plan.**

**LBR 7056-1. SUMMARY JUDGMENT**

(a) **Brief and Statement of Uncontested Facts.** Upon filing any motion for summary judgment pursuant to FRBP 7056, the movant shall file and serve a supporting brief and a separate, short, and concise statement of the uncontested facts as to which the movant contends there is no genuine issue to be tried, including specific reference to those parts of the pleadings, depositions, answers to interrogatories, admissions, and affidavits that support such contention.

(b) **Response to Statement of Uncontested Facts.** The party or parties opposing a motion for summary judgment shall file their response with supporting brief and a separate, short, and concise statement of the material facts as to which it is contended that there exists a genuine issue to be tried, including specific reference to those parts of the pleadings, depositions, answers to interrogatories, admissions on file and affidavits that support such contentions. Any such response shall be filed and served within 21 days of service of movant's brief and Statement of Uncontested Facts.

(c) **Facts Deemed Admitted.** All material facts set forth in the statement served by the movant may be deemed admitted unless controverted by the statement required to be served by the opposing party or parties.

(d) **Failure to Comply.** Failure to comply with this Rule by the movant may result in denial of the motion.