

**IN THE UNITED STATES BANKRUPTCY COURT FOR  
THE EASTERN DISTRICT OF TENNESSEE**

**IN RE** )  
 )  
**AMENDMENTS TO** ) **No. 08-002**  
**LOCAL RULES** )

**GENERAL ORDER**

Pursuant to Rule 9029 of the Federal Rules of Bankruptcy Procedure and Rule 83 of the Federal Rules of Civil Procedure, it is ORDERED that the clerk give public notice of the amendments to the Local Rules of the United States Bankruptcy Court for the Eastern District of Tennessee that are attached hereto. Any comments to the proposed amendments to the rules must be in writing and should be directed to the attention of the clerk at the following address: Danny Armstrong, Clerk, United States Bankruptcy Court, Howard H. Baker Jr. U. S. Courthouse, 800 Market Street, Suite 330, Knoxville, Tennessee 37902. The comment period will end on February 15, 2008.

/s/ John C. Cook  
JOHN C. COOK  
Chief United States Bankruptcy Judge

/s/ Richard Stair Jr.  
RICHARD STAIR JR.  
United States Bankruptcy Judge

/s/ Marcia Phillips Parsons  
MARCIA PHILLIPS PARSONS  
United States Bankruptcy Judge

Entered: January 9, 2008

/s/ R. Thomas Stinnett  
R. THOMAS STINNETT  
United States Bankruptcy Judge

**AMENDMENTS TO  
LOCAL BANKRUPTCY RULES OF THE  
UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE  
effective February 25, 2008**

**RULE 1007-4. LISTS, SCHEDULES & STATEMENTS**

Interim Rule 1007(b)(7) may be satisfied by the filing of a certificate issued by an approved personal financial management provider bearing (i) the debtor's name, (ii) the case number, (iii) a certification by such provider that the debtor completed an instructional course in personal financial management and that the provider is an approved personal financial management provider, and (iv) an electronic ("/s/") or manual signature by an authorized agent of the provider. This rule does not preclude the debtor from complying with Interim Rule 1007(b)(7) by completing and filing Official Form 23; the debtor must use Official Form 23 if the debtor asserts that no personal financial management course is required.

**RULE 1017-1. CONVERSION — REQUEST FOR/ NOTICE OF**

**(a) Conversion from Chapter 13 or 12 to Chapter 7.** Pursuant to 11 U.S.C. § 1307(a), 11 U.S.C. § 1208(a), and Fed. R. Bankr. P. 1017(f)(3), a debtor may convert a chapter 13 or chapter 12 case to chapter 7 by filing a notice of conversion. Any motion filed by a debtor seeking to convert a chapter 13 or chapter 12 case to a case under chapter 7 will be treated as a notice of conversion and should not be accompanied by a Notice of Hearing as set forth in Local Rule 9013-1(f). Any conversion notice or motion must be accompanied by the required conversion fee.

**(b) Conversion from Chapter 7.** A debtor may seek conversion pursuant to 11 U.S.C. § 706(a) only by motion. The movant must set the motion for hearing in accordance with the procedure in Local Rule 9013-1(f) or utilize the passive notice procedure of Local Rule 9013-1(h).

**RULE 2016-1. COMPENSATION OF DEBTOR'S  
ATTORNEY IN CHAPTER 13 CASES**

**(a) Presumptive Fee.**

(1) *Base Fee for Preconfirmation and Routine Services.* In a chapter 13 case, a debtor's attorney may, without filing an itemized statement, request a Base Fee in an amount not to exceed ~~\$2,000~~ \$3,000 for all services rendered and expenses incurred prior to confirmation of the plan and all routine services and expenses anticipated to be rendered or incurred after

confirmation. The amount of the Base Fee must be stated in the chapter 13 plan and on a Disclosure of Compensation of Attorney for Debtor form substantially conforming to Local Form 2016.1, which must be filed in accordance with Fed. R. Bankr. P. 2016(b). The chapter 13 trustee shall review the request for a Base Fee and file an objection if the trustee believes the fee request is excessive under the circumstances of the case. The trustee's submission of a proposed confirmation order for entry by the court shall be deemed a statement by the trustee that he or she has reviewed the fee request and has no objection. Absent an objection to the Base Fee provision of the plan filed in accordance with Local Rule 3015-3(a)(b), the court will generally approve the Base Fee upon plan confirmation without further notice or a hearing. However, the court *sua sponte* may require a hearing on any Base Fee.

(2) *Supplemental Fees for Postconfirmation, Non-routine Services.* Any attorney who has received a Base Fee pursuant to subdivision (a)(1) of this rule, and who seeks additional compensation or reimbursement of expenses for representing the debtor in connection with the case after plan confirmation for services or expenses not considered routine, must file an itemized fee application that complies with Fed. R. Bankr. P. 2016(a). In filing the application, the attorney must follow the motion procedure set forth in Local Rule 9013-1, which requires, *inter alia*, that the application be accompanied by a proposed order and be set for hearing or contain the passive notice language. The application must set forth the effect of the additional fee, if any, on the dividend to be paid unsecured creditors under the confirmed plan. The applicant must serve the application, along with the proposed order, on the debtor and the trustee, and if the fee requested exceeds \$1,000, the application must also be served on all creditors and other parties in interest if (A) the fee requested exceeds \$1,000, or (B) the additional fee would affect the dividend to be paid unsecured creditors under the confirmed plan. The chapter 13 trustee shall review the amount sought and object thereto if the trustee believes the amount is excessive under the circumstances of the case. As provided by 11 U.S.C. § 331, applications for additional compensation or reimbursement of expenses may not be filed more often than once every 120 days.

**(b) Lodestar Fee.** In any case in which the attorney seeks initial compensation in excess of \$2,500 \$3,000 or in any case in which the attorney chooses to seek compensation other than as prescribed in subdivision (a) of this rule, the attorney must file a fee application including an itemized statement conforming to Fed. R. Bankr. P. 2016(a). In filing the application, the attorney must follow the motion procedure set forth in Local Rule 9013-1, which requires, *inter alia*, that the application be accompanied by a proposed order and be set for hearing or contain the passive notice language. In addition to the requirements of Fed. R. Bankr. P. 2016(a), the application must set forth the effect of the fee on the dividend to be paid unsecured creditors under the debtor's plan. The applicant must serve the application or a summary thereof, along with the proposed order, on the debtor, the trustee, and all creditors and parties in interest and certify service as required by Local Rule 9013-3. In addition, the attorney must timely file the compensation disclosure statement required by Fed. R. Bankr. P. 2016(b). The chapter 13 trustee shall review the amount sought and object thereto if the trustee believes the amount is excessive under the circumstances of the case.

## RULE 2091-1. ATTORNEYS — WITHDRAWALS

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**(b) Substitution.** An attorney of record representing a debtor that ~~If the client agrees to an attorney's withdrawal and~~ has obtained the services of another attorney, ~~the attorney of record~~ must file a motion for substitution along with a proposed agreed order signed by both attorneys. New counsel for a debtor must file the disclosure of compensation statement required by 11 U.S.C. § 329 and Fed. R. Bankr. P. 2016(b) within 10 days after entry of the order. An attorney representing a creditor that has obtained the services of another attorney must file a notice of substitution of counsel that includes the new attorney's name, office address, telephone and fax numbers, and e-mail address.

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## RULE 3015-2. CHAPTER 13 — AMENDMENTS TO PLANS

### (a) Modification of Confirmed Plans.

(1) ~~Motion to Modify.~~ Procedure. Except as provided in paragraph (7) of this subdivision,  
a ~~A~~ debtor seeking to modify a confirmed chapter 13 plan must file—

- (i) a motion to modify the plan;
- (ii) the proposed modified plan;
- (iii) a Notice conforming to Local Form 3015.2; and
- (iv) if the motion seeks to reduce plan payments, amended Schedules I and J.

(2) Contents of Motion. The motion to modify must include—

- (i) a summary of the changes set forth in the proposed modified plan; and
- (ii) the reason for the modification.

(3) Contents of Notice. The date specified in the Notice for the meeting with the chapter 13 trustee must be designated by the debtor on a day prearranged by the trustee and must be at least 20 days after service of the motion, plan, and notice.

~~(2)~~ (4) Service of the Motion. The motion must contain a certificate evidencing service of the motion, the proposed modified plan, and the Notice on the chapter 13 trustee and all affected creditors and parties in interest. The chapter 13 trustee must also be served with copies of the amended schedules.

(3) (5) Objections to the Motion. To be timely, an objection to the motion to modify must be filed with the clerk before the scheduled time of the meeting with the trustee or before the scheduled time of a continued meeting, or the objection must be lodged with the chapter 13 trustee at the meeting in the particular case. An objection filed beyond the time fixed in this rule will not be considered unless the court, for cause, extends the time. An objection must set forth the grounds relied upon by the objecting party and must contain a certificate evidencing service on the debtor's attorney and the chapter 13 trustee, unless the objection is lodged with the trustee during the meeting.

(4) (6) Court Consideration of Motion. If no objection to the proposed modification is filed, the court may approve the modification without a hearing. In that event, the chapter 13 trustee must promptly tender an order approving the modification, bearing the signature of the trustee, in a form substantially conforming to Local Form 3015.3. If a party in interest objects to confirmation of the modified plan, the court will conduct a hearing, which (absent a contrary agreement of the objecting parties and the debtor) will be the first scheduled time for confirmation hearings that is at least seven days after the completion of the meeting with the chapter 13 trustee.

(7) Agreed Order. Notwithstanding the foregoing, a plan may be modified by an agreed order signed by counsel for the debtor and the trustee if the modification would not adversely affect any creditor and the agreed order so certifies.

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## **RULE 4001-1. AUTOMATIC STAY — RELIEF FROM**

### **(a) Chapter 7 Cases.**

(1) *Contents of Motion.* A motion for relief from the automatic stay filed by a secured creditor in a chapter 7 case must include—

- (i) a statement of the unpaid balance of the creditor's claim as of the date of filing of the debtor's petition;
- (ii) a description of the collateral in which the creditor asserts a security interest; and
- (iii) a statement of the creditor's good faith estimate of the value of the collateral ~~and a statement of the basis of such estimate (such as appraisal, tax valuation, NADA value, sales of comparable property, purchase price and age, etc.).~~

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## **RULE 4001-2. AUTOMATIC STAY — IMPOSITION OR CONTINUATION**

### **(a) Motion to Impose Stay**

(1) Contents of Motion. A motion to impose a stay filed by a debtor pursuant to 11 U.S.C. § 362(c)(4)(B) must—

- (i) identify the creditors proposed to be stayed;
- (ii) list the case numbers of all cases pending within the year preceding the commencement of the current case, along with the reasons the cases were dismissed; and
- (iii) set forth the facts that demonstrate that the filing of the present case is in good faith as to the creditors proposed to be stayed.

(2) Procedure. The movant must set the motion for hearing at least 5 days after the date of notice. If a party desires a hearing on notice that is less than 5 days, or that requires a special setting that is not one of the court's scheduled motion days, the party must seek permission from the court by contacting a courtroom deputy clerk.

(3) Proposed Order. Each motion must be accompanied by a proposed order, approved for entry by the movant, which must be served with the motion. Each order must identify the creditors to be stayed.

(4) Service. Each motion must contain a certificate evidencing service of the motion and proposed order, along with a Notice of Hearing, on each creditor proposed to be stayed. If the motion is scheduled to be heard on less than 10 days' notice, the motion must (in addition to methods prescribed by the Bankruptcy Rules) be sent by a method effecting immediate receipt, such as by e-mail or telephone facsimile. Proof of compliance with the notice requirements of this subdivision must be filed at or prior to the hearing on the motion. The court will determine at the hearing whether the notice and opportunity for hearing were appropriate in the particular circumstances.

### **(b) Motion to Continue Stay**

(1) Contents of Motion. A motion to continue a stay filed by a debtor pursuant to 11 U.S.C. § 362(c)(3)(B) must—

- (i) identify the creditors proposed to be stayed;
- (ii) list the case number of the case pending within the year preceding the commencement of the current case, along with the reason the case was dismissed; and
- (iii) set forth the facts that demonstrate that the filing of the present case is in good faith as to the creditors proposed to be stayed.

(2) Procedure. The movant must set the motion for hearing in accordance with Local Rule 9013-1(f).

(3) Proposed Order. Each motion must be accompanied by a proposed order, approved for entry by the movant, which must be served with the motion. Each order must identify the creditors to be stayed.

(4) Service. Each motion must contain a certificate evidencing service of the motion and proposed order, along with a Notice of Hearing, on each creditor proposed to be stayed.

#### **RULE 5005-4. ELECTRONIC FILING**

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(b) Electronic Filing Mandatory. All attorneys practicing in this court must register as a Registered User of the Electronic Case Filing (ECF) system and file their pleadings and other papers electronically through the ECF system. Any attorney desiring to file a document in the traditional manner must file with the document a motion for leave to do so, alleging the facts and circumstances that the attorney believes constitute good cause for suspending the operation of the preceding sentence. The motion must be accompanied by a proposed order, approved for entry by the movant.

~~(b)~~ (c) Facsimile Filing. Documents may not be filed by facsimile transmission except with the prior express permission of the court.

#### **RULE 6004-1. SALE OF ESTATE PROPERTY**

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(d) Sales by Chapter 13 Debtors. A motion to sell property filed by a debtor in a chapter 13 case must comply with subdivision (a) of this rule. If the motion seeks to sell the property free and clear of liens or other interests, the motion must also comply with subdivision (b) of this rule.

#### **RULE 6008-1. REDEMPTION**

**(a) Contents of Motion.** A motion to redeem pursuant to 11 U.S.C. § 722 and to Fed. R. Bankr. P. 6008 must, in addition to other material averments, contain—

- (1) a description of the property sought to be redeemed;
- (2) a statement of the debtor's good faith estimate of the value of the collateral ~~and a statement of the basis of such estimate (such as appraisal, tax valuation, NADA~~

~~value, sales of comparable property, purchase price and age, debtor's personal opinion, etc.); and~~

- (3) a statement that the property has been abandoned or is exempt.

**(b) Procedure.** The movant must set the motion for hearing in accordance with Local Rule 9013-1(f) or utilize the passive notice procedure of Local Rule 9013-1(h).

**(c) Proposed Order.** Each motion must be accompanied by a proposed order, approved for entry by the movant, which must be served with the motion.

**(d) Service.** Each motion must contain a certificate evidencing service of the motion and proposed order, along with the Notice of Hearing if a hearing is set, on the trustee and the creditor.

#### ~~RULE 7005-2. FILING OF DISCOVERY MATERIALS~~

~~Deposition transcripts (or audio or video recordings of depositions), interrogatories, requests for documents, and requests for admissions and responses or answers thereto should not be filed with the clerk except by order of the court. Relevant portions of discovery materials may, however, be filed in support of or in opposition to motions and for use at trial (see Local Rule 7037-1).~~

#### **RULE 7007-1. MOTION PRACTICE IN ADVERSARY PROCEEDINGS**

**(a) Motion, Response, and Briefs.** A motion filed in an adversary proceeding must be accompanied by a brief setting forth the facts and the law supporting the motion. Unless the court directs otherwise, the opposing party must file a response within 20 days after the date of filing of the motion. Any response must be supported by a brief setting forth the facts and the law in opposition to the motion. A failure to respond timely will be construed to mean that the respondent does not oppose the relief requested by the motion. After the time for response has expired, the court may rule on the motion without a hearing. A party may request a hearing on any motion.

**(b) Proposed Orders.** All motions in adversary proceedings must be accompanied by a proposed order, which must be served with the motion, granting the requested relief and approved for entry by the movant. A movant's failure to submit a proposed order with the motion may result in the entry of an order denying the motion without prejudice.

## **RULE 9004-2. CAPTION — PAPERS, GENERAL**

**(a) Chapter and Division.** In addition to the information required by Fed. R. Bankr. P. 9004(b) and, if applicable, 11 U.S.C. § 342(c) or Fed. R. Bankr. P. 1005 or 2002(n), every caption must identify the chapter of the case and the division in which the case or adversary proceeding is pending.

**(b) Exhibits and Amendments.** Exhibits and other attachments (including payment advices attached to Local Form 1007.1 and mailing matrixes attached to certificates of service), should normally be filed as attachments to the main document to which they relate. If, however, an exhibit or other attachment is filed as a docket entry separate from the paper to which it relates, the filing must include a cover sheet bearing the case caption and a description of the paper to which the document relates. Likewise, amendments to documents (including reaffirmation agreements) must include such a cover sheet.

## **RULE 9006-1. TIME PERIODS**

**(a) Contents of Motion.** Every motion for an order extending or shortening time pursuant to Fed. R. Bankr. P. 9006(b)(1) and (c)(1), respectively, must describe in detail the need and justification for the relief sought and must allege the facts that the movant contends demonstrate cause for the relief sought.

**(b) Procedure.** The movant may utilize the procedure for *ex parte* motions prescribed by Local Rule 9013-1(g) or set the motion for hearing in accordance with Local Rule 9013-1(f).

**(c) Proposed Order.** Each motion must be accompanied by a proposed order, approved for entry by the movant, which must be served with the motion.

**(d) Service.** Each motion must contain a certificate evidencing service of the motion and proposed order (along with the Notice of Hearing if a hearing is set) on all parties that would be affected by the relief sought.

## **RULE 9013-1. MOTION PRACTICE**

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### **(f) Hearing on Motions.**

(1) *Requirement.* Except as permitted in by subdivisions (g), and (h), and (i) of this rule, every motion, as defined in this rule, must be set for hearing by the movant. The movant must give notice of the hearing, either by a legend prominently displayed on the face of the



- (C) hearings on motions to impose stays under 11 U.S.C. § 362(c)(4)(B) must be at least 5 days after the date of notice scheduled in accordance with Local Rule 4001-2. If a party desires a hearing on notice that is less than 5 days, or that requires a special setting that is not one of the court's scheduled motion days, the party must seek permission from the court by contacting a courtroom deputy clerk. In addition to methods prescribed by the Bankruptcy Rules, notices of hearings on motions to impose stays must be sent by a method effecting immediate receipt, such as by e-mail or telephone facsimile if available. Proof of compliance with the notice requirements of this subdivision must be filed at or prior to the hearing on the motion. The court will ~~determine at the hearing whether the notice and opportunity for hearing were appropriate in the particular circumstances;~~ and
- (D) hearings on debtors' motions to convert from chapter 7 to any other chapter must be at least 10 days after the date of notice.

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**(g) Ex Parte Motions.**

(1) *Definition.* Unless otherwise directed by the court, no hearing is required for the motions set forth in this subdivision (g), which may be granted by the court on an ex parte basis.

(2) *Types of Motions.* The motions which fall within this category are—

- (i) applications to pay filing fee in installments as permitted by Fed. R. Bankr. P. 1006(c);
- (ii) motions for orders extending or shortening time pursuant to Fed. R. Bankr. P. 9006(b)(1)(1) and (c)(1) respectively and Local Rule 9006-1, except motions to extend time to file a complaint objecting to discharge pursuant to Fed. R. Bankr. P. 4004(b) or to determine the dischargeability of a debt pursuant to Fed. R. Bankr. P. 4007(c);
- (iii) motions for a Rule 2004 examination;
- (iv) motions for an emergency hearing;
- (v) motions for *pro hac vice* appearance;
- (vi) motions by debtor for delay of entry of discharge, filed in accordance with Local Rule 4004-1(b);
- (vii) motions in which the movant certifies that all affected parties have consented to the requested relief;
- (viii) motions by debtor to convert pursuant to 11 U.S.C. §§ ~~706(a)~~, 1112(a), 1208(a) or 1307(a);
- (ix) motions by trustee to reopen chapter 7 case to administer additional assets;
- (x) motions by debtor to dismiss chapter 13 case;
- (xi) motions for entry of or to vacate wage order;
- (xii) motions directing Internal Revenue Service to transmit refund to chapter 13 trustee and requests to vacate such orders;

- (xiii) motions by creditors to recover unclaimed funds;
- (xiv) subject to Fed. R. Bankr. P. 6003(a), applications to employ professionals pursuant to Fed. R. Bankr. P. 2014 that do not seek approval of a postpetition retainer or a particular fee arrangement and that do not reveal any actual or potential conflicts of interest or any other facts that could preclude retention; provided the application has been served on the United States trustee who will have seven days from the date of service in which to object;
- (xv) motions to waive the filing fee under 28 U.S.C. § 1930(f) and FRBP Fed. R. Bankr. P. 1006(c); and
- (xvi) motions pursuant to 11 U.S.C. § 109(h)(3)(B) for an extension of an exemption granted pursuant to 11 U.S.C. § 109(h)(3).

Notwithstanding the foregoing, the procedure described in this subdivision (g) may not be utilized if a request for one of the types of relief listed above is combined with a request for a type of relief listed in subdivision (h)(1) or a request for relief for which subdivision (f) requires a hearing.

(3) *Proposed Order.* Each ex parte motion, except applications to pay filing fee in installments, must be accompanied by a proposed order, approved for entry by the movant as required by subdivision (c) of this rule.

**(h) “Passive Notice” (Notice and Opportunity for a Hearing) Motions.**

(1) *Type of Motions.* As an alternative to setting and noticing a motion for hearing as required in subdivision (f) of this rule, a movant may follow the passive notice procedure set forth herein whereby no hearing is set or held unless a party in interest objects to the relief requested in the motion. This passive notice procedure may be used only for the following matters—

- (i) motions in chapter 7 cases for adequate protection or for relief from the automatic stay pursuant to 11 U.S.C. § 362(d)(1) or (2); provided, however, if the passive notice procedure is utilized, the movant is deemed to have waived the 30-day automatic termination provision of 11 U.S.C. § 362(e);
- (ii) motions to avoid judicial liens pursuant to 11 U.S.C. § 522(f)(1)(A), filed in accordance with Local Rule 4003-2;
- (iii) motions to avoid liens pursuant to 11 U.S.C. § 522(f)(1)(B);
- (iv) motions to assume or reject executory contracts pursuant to 11 U.S.C. § 365;
- (v) motions to redeem pursuant to 11 U.S.C. § 722, filed in accordance with Local Rule 6008-1;
- (vi) motions pursuant to Fed. R. Bankr. P. 4001(d) for approval of an agreement to provide adequate protection, to prohibit or condition the use, sale, or lease of property, to modify or terminate the stay provided for in 11 U.S.C. § 362, to use cash collateral, or 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;
- (vii) notices of the proposed use, sale, or lease of property not in the ordinary course of business pursuant to Fed. R. Bankr. P. 6004(a), but not motions to

sell property free and clear of liens or other interests pursuant to Fed. R. Bankr. P. 6004(c);

- (viii) notices of abandonment pursuant to Fed. R. Bankr. P. 6007(a) and motions to compel abandonment pursuant to Fed. R. Bankr. P. 6007(b);
- (ix) motions to approve compromises or settlements pursuant to Fed. R. Bankr. P. 9019(a), filed in accordance with Local Rule 9019-1;
- (x) motions by a creditor, the trustee, or United States trustee to extend time to file a complaint objecting to discharge pursuant to Fed. R. Bankr. P. 4004(b) or to determine the dischargeability of a debt pursuant to Fed. R. Bankr. P. 4007(c);
- (xi) objections to proofs of claims, filed in accordance with Local Rule 3007-1;
- (xii) motions for entry of a final decree in chapter 11 cases;
- (xiii) applications or requests for payment of administrative claims or expenses pursuant to 11 U.S.C. § 503, including fees for professionals;
- (xiv) applications to employ professionals that seek the approval of a postpetition retainer or a particular fee arrangement and evidence service on all creditors and parties in interest except that service of the application in a chapter 11 case may be limited to the parties set forth in Local Rule 2002-1(b); ~~and~~
- (xv) motions for relief from the codebtor stay pursuant to 11 U.S.C. § 1301;
- (xvi) motions for orders permitting acts to be done after the expiration of a deadline pursuant to Fed. R. Bankr. P. 9006(b)(1)(2);
- (xvii) motions by debtors to convert pursuant to 11 U.S.C. § 706(a);
- (xviii) motions by trustees pursuant to 11 U.S.C. § 521(a)(6) or 362(h)(2); and
- (xix) motions by debtors to reopen closed cases to file proof of completion of instructional courses in personal financial management.

Notwithstanding the foregoing, the procedure described in this subdivision (h) may not be utilized if a request for one of the types of relief listed above is combined with a request for relief for which subdivision (f) requires a hearing.

(2) *Passive Notice Legend.* Matters filed pursuant to this passive notice procedure must contain a passive notice legend prominently displayed on the face of the first page of the paper motion. The passive notice legend must be in a form substantially as follows:

## NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to Local Rule 9013-1(h), the court may consider this matter without further notice or hearing unless a party in interest files an objection. If you object to the relief requested in this paper, you must file with the clerk of the court at \_\_\_[address]\_\_\_, an objection within \_\_\_[number]\_\_\_ days from the date this paper was filed and serve a copy on the movant's attorney, \_\_\_[name and address and any other appropriate persons]\_\_\_. If you file and serve an objection within the time permitted, the court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the court will consider that you do not oppose the granting of the relief requested in this paper and may grant the relief requested without further notice or hearing.

(3) *Objection deadline.* The number of days in which parties may object that is placed in the passive notice legend must be 20 days except

- (i) debtors' motions to convert pursuant to 11 U.S.C. § 706(a), for which the objection time must be at least 10 days;
- (ii) motions for relief from the automatic stay or to compel abandonment (or both) in chapter 7 cases for which the objection time must be at least 15 days; and
- (iii) motions for adequate protection in chapter 7 cases when combined with motions for relief from the automatic stay or to compel abandonment (or both) for which the objection time must be at least 15 days; and
- (iv) objections to proofs of claim pursuant to Fed. R. Bankr. P. 3007 for which the objection time must be at least 30 days.

Except as otherwise provided in this subdivision, when requests for more than one type of relief with respect to which the "passive notice" procedure is available are combined into a single motion, the objection period is the longest one applicable to any of the types of relief.

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### (i) Post-Hearing Motions

(1) *Exception to Hearing Requirement.* The following post-hearing motions relating to appealable orders entered in contested matters governed by Fed. R. Bankr. P. 9014 are not subject to the hearing requirements of subsection (f) of this rule:

- (i) motions to amend or make additional findings of fact under Fed. R. Bankr. P. 9014(c) and 7052 (Fed. R. Civ. P. 52(b));
- (ii) motions to alter or amend judgments under Fed. R. Bankr. P. 9023 (Fed. R. Civ. P. 59(e));
- (iii) motions for new trials under Fed. R. Bankr. P. 9023 (Fed. R. Civ. P. 59(d));
- (iv) motions for relief from judgments or orders under Fed. R. Bankr. P. 9024 (Fed. R. Civ. P. 60(b)); and
- (v) motions for stays pending appeal under Fed. R. Bankr. P. 8005.

(2) Briefs. All motions of the type described in subdivision (1) above shall be accompanied by a brief setting forth the facts and the law supporting the motion. Unless the court reduces or extends the time, the opposing party shall file a response and a brief in opposition to the motion within 10 days after the date of the filing of the motion.

(3) Ruling on Motion. After the response time has expired, the court, unless it deems oral argument helpful, will rule on the motion without a hearing.

(j) Shortening of Notice Periods. The notice periods prescribed by subdivisions (f)(2)(ii) and (h)(3) of this rule may not be shortened except by order of the court upon a motion filed in accordance with Local Rule 9006-1.

### **RULE 9013-3. CERTIFICATE OF SERVICE**

**(a) Requirement.** When the Bankruptcy Code, applicable rules of procedure, court order, or these rules require a paper to be served on parties in interest, a certificate of service must be signed by the party or attorney required to effect notice or service and promptly filed with the clerk.

**(b) Content.** The certificate of service must include—

- (1) a description of the paper served;
- (2) the name of every entity served;
- (3) the service address of every entity served unless the entity was served electronically;
- (4) the method whereby the paper was served; ~~and~~
- (5) the date that the paper was served; and
- (6) if the filer is relying on an order limiting notices previously entered in the case, a reference to the date and document number of the order.

### **RULE 9014-1. FILING OF DISCOVERY MATERIALS**

Deposition transcripts (or audio or video recordings of depositions), interrogatories, requests for documents, and requests for admissions and responses or answers thereto should not be filed with the clerk except by order of the court. Relevant portions of discovery materials may, however, be filed in support of or in opposition to motions and for use at trial (*see* Local Rule 7037-1).

## RULE 9019-1. SETTLEMENTS

\* \* \*

(c) **Service.** Except as provided in the next sentence, the ~~The~~ motion must contain a certificate evidencing service of the motion and proposed order (along with the Notice of Hearing if a hearing is set) on the debtor (or the trustee if the debtor is filing the motion), all creditors, and other parties in interest including the United States trustee. Unless the chapter 13 plan provides for the insurance proceeds to be paid to unsecured creditors, a motion in a chapter 13 case to approve a compromise and settlement of a motor vehicle casualty insurance claim need be served only on the chapter 13 trustee, creditors claiming security interests in the motor vehicle, and the insurance company or agent.

(d) **Dispositive Order in Disposition of Adversary Proceeding.** Upon approval of the motion, the movant must either (A) tender a separate agreed order for filing in the adversary proceeding, (approved for entry by the parties to the adversary proceeding) disposing of the proceeding in accordance with the settlement, or (B) file in the adversary proceeding .a notice of dismissal, stipulation of dismissal, or motion to dismiss as appropriate under Fed. R. Bankr. P. 7041 and Fed. R. Civ. P. 41.

## RULE 9072-1. PROPOSED ORDERS

Every motion (whether in connection with a case, contested matter, or adversary proceeding) must be accompanied by a proposed order granting the requested relief and signed by the party or attorney who prepared the order, ~~except that the chapter 13 trustees may submit their proposed orders on their motions to dismiss after the hearings on the motions.~~ Every agreed order (whether in connection with a case, contested matter, or adversary proceeding) must be accompanied by an appropriate motion requesting entry of the order, unless the agreed order resolves a previously filed motion.

**LOCAL FORM 2016.1**

[CAPTION]

**DISCLOSURE OF COMPENSATION OF ATTORNEY FOR DEBTOR**

1. Pursuant to 11 U.S.C. § 329(a), Fed. R. Bankr. P. 2016(b), and Local Bankruptcy Rule 2016-1(a)(1), I certify that I am the attorney for the above-named debtor and that compensation paid to me within one year before the filing of the petition in bankruptcy, or agreed to be paid to me, for services rendered or to be rendered on behalf of the debtor in contemplation of or in connection with this chapter 13 case is as follows:

For legal services and expenses, I have agreed to accept . . . . . \$ \_\_\_\_\_

Prior to the filing of this statement I have received . . . . . \$ \_\_\_\_\_

Balance Due . . . . . \$ \_\_\_\_\_

This fee is a “Base Fee.” That means that I will not charge any additional amount for any services rendered or expenses incurred prior to confirmation of the chapter 13 plan, or for any routine services or expenses that I expect to render or incur after confirmation. The types of post-confirmation services and expenses usually considered “routine,” so that I will not charge extra for them, include the following:

Review of confirmation order and periodic case status reports from trustee	Responding to debtor contacts regarding changes in financial circumstances, including job changes and unanticipated expenses
Maintaining custody and control of all case files with original documents for such periods prescribed by law or court rule	Other routine communications with the debtor, including keeping the debtor informed regarding the status of the case; reminders about meetings and hearings; consultations regarding postpetition credit, defaults on direct payments, insurance coverage or lack thereof, etc.
Service of notices and orders as required by court rule	Obtaining and providing the trustee with copies of documents relating to lien perfection issues, such as recorded deeds of trust, security agreements, and the like
Preparation, filing, and prosecution of objections to claims that one can reasonably anticipate will not be contested, such as objections to untimely filed claims and objections to duplicate claims	Preparation and mailing of letters to creditors regarding lien releases, the turnover of clear title certificates, the cancellation of deeds of trust and judgments, and the like
Consummation of assumptions and rejections of unexpired leases and executory contracts	The preparation and certified mailing of letters to creditors regarding alleged violations of the automatic stay
Defense of motions to transfer venue or to dismiss for improper venue	<u>Defense of one motion to dismiss filed after confirmation of plan</u>
Responding to written or oral contacts from creditors regarding plan terms, valuation of collateral, claim amounts, and the like	Any other services and expenses that a <u>reasonable an</u> attorney would <u>reasonably</u> expect to render or incur in most, if not all, chapter 13 cases

The types of post-confirmation services and expenses usually **not** considered “routine,” so that I **may** charge extra for them and file a supplemental fee request, after exercising appropriate billing judgment and taking into account the fees previously awarded, include the following:

Motion for authority to sell property	Post-discharge injunction actions
Motion to modify plan	Adversary proceedings
Motion to incur debt	Defense of motions to convert case to chapter 7
Defense of motion for relief from automatic stay or codebtor stay	Motions to substitute collateral
Defense of <u>a second or additional motions to dismiss</u> filed after confirmation of plan	Supplemental fee requests
Stay violation litigation, including amounts paid as fees by the creditor or other party	

2. The source of the compensation paid to me was:  
 Debtor       Other: \_\_\_\_\_
3. The source of the compensation to be paid to me is:  
 Debtor       Other: \_\_\_\_\_
4.  I have not agreed to share the above-disclosed compensation with any other person unless they are members and associates of my law firm.

or

I have agreed to share the above-disclosed compensation with a person or persons who are not members of my law firm. A copy of the agreement and a list of the names of the people sharing in the compensation are attached.

#### ATTORNEY’S CERTIFICATION

I certify that the foregoing is a complete statement of any agreement or arrangement for payment to me for representation of the debtor in connection with this chapter 13 case. I further certify that the Base Fee set forth above is based on the consideration of the benefit and necessity of my services to the debtor and all other relevant factors, including the time spent or to be spent on such services, the rates charged for such services, the total amount of the secured and unsecured debt, the nature of the case (whether consumer or business), and the complexity of the case. I further certify that I have furnished a copy of this fee disclosure to the debtor and the chapter 13 trustee.

Dated: \_\_\_\_\_

\_\_\_\_\_  
 [SIGNATURE OF ATTORNEY]