



United States Bankruptcy Court District of Arizona

Proposed Local Rules Amendments

- Redlines -

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Rule 1000-1

Prohibition of Bias

Litigation, inside and outside the courtroom, in the United States District Court for the District of Arizona, including the bankruptcy court, must be free from prejudice and bias in any form. Fair and equal treatment must be accorded all courtroom participants, whether judges, attorneys, witnesses, litigants, jurors, or court personnel. The duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias toward another on the basis of categories such as sex, gender, race, ethnicity, religion, disability, age, ~~or~~ sexual orientation, national origin, genetic information, marital status, or veteran status.

Committee Notes 2016: Revised to add references to sex, national origin, genetic information, marital status, and veteran status consistent with protections provided under federal law.

Rule 1000-2

Professional Conduct

Attorneys must comply with applicable professional and ethical rules. Attorneys shall exercise civility in dealings with all entities with which the attorneys come in contact and dress in a manner appropriate for a federal proceeding, including a § 341(a) meeting of creditors. Additionally, attorneys shall advise their clients likewise to act in a civil and courteous manner and dress in a manner appropriate for a federal proceeding, including a § 341(a) meeting of creditors.

Rule 1002-1

Commencement of Chapter 11 Cases - Status Conferences

(a) In cases filed under or converted to chapter 11, the court shall issue an order setting an initial status conference to be held the same day as the Section 341 first meeting of creditors. The initial status conference may be combined with any final hearing on the use of cash collateral or other first day motions. No later than 7 days before such status conference, the debtor(s) shall file a report discussing the following issues:

- (1) The nature of the debtor's operations and the factors leading to the filing of a chapter 11.
- (2) Whether any professionals have been or will be employed by the debtor.
- (3) Any unique issues regarding secured debt, employees, executory contracts, cash collateral, existing management and/or equity owners.
- (4) A deadline for the filing of a plan and disclosure statement.
- (5) A deadline for the filing of proofs of claims and interests.
- (6) The status of debtor's post-petition operations.
- (7) The status of any litigation involving the debtor.

(b) The debtor(s) shall attend the initial status conference along with counsel. The status conference may be continued from time to time.

Committee Notes 2016: Local Rule was added to call for the setting of an initial status conference for each chapter 11 filing. This rule describes the information to be contained in a report to be filed by the debtor in advance of that hearing, which hearing is to generally take place on the same day as the debtor's first meeting of creditors.

Rule 1005-1

Caption and Form of Papers

(a) Caption. The caption of any document filed shall designate the court as the United States Bankruptcy Court for the District of Arizona.

(b) Case Number. The case number on any document filed shall include:

- (1) the division number for the division within the district in which the case was filed (0 = Yuma; 2 = Phoenix; and 4 = Tucson);
- (2) the last two digits of the calendar year in which the case is filed;
- (3) the letter designation of the type of case that is being filed, e.g., bk = bankruptcy proceeding; ap = adversary proceeding, etc.;
- (4) the number of the case assigned when the case was filed;
- (5) the initials of the Judge to whom the case is assigned.

(c) Case Chapter. Each document filed shall designate the chapter of the case in the caption.

(d) Trade Name(s). The caption for an individual petition or joint petition by a husband or wife shall include, after the name(s) of the debtor(s), the name of any sole proprietorship operated by the debtor(s). The caption for a debtor that is not an individual shall include, after the name of the debtor, any trade name(s) used by that entity, which shall be identified by the letters "d/b/a".

Committee Notes ~~2007: The changes above were made~~2016: Local Rule was amended to conform to the case numbering and caption provisions that are applicable to add paragraph (d) calling for the bankruptcy matters as a result of the adoption of the ECF electronic filing system petition to identify the names of an individual debtor's sole proprietorships and an entity debtor's trade names.

Rule 1005-2

Petition

(a) Completeness. The ~~petitioner~~debtor must complete each section of the petition by answering all questions, providing all requested information, and marking all applicable boxes. ~~On page two, if~~ If the debtor(s) filed no prior bankruptcy cases, the Petition must state “None.” The ~~petitioner’s~~debtor’s attorney must include an e-mail address and, if the petitioner has an e-mail address, the petitioner must put the e-mail address below the signature.

~~**(b) Doing Business.** A caption for an individual petition or joint petition by a husband or wife shall include any sole proprietorships.~~**(b)** Corporations, partnerships, or similar entities shall not be joined in one petition or in an individual's petition. Only individuals may file a petition under or convert a case to chapter 13.

(c) Involuntary. An involuntary joint petition against a husband and wife shall not be ~~filed.~~permitted. Two separate involuntary petitions must be filed.

~~Committee Notes 2007: The requirement for petitioner to list an e-mail address is added to facilitate noticing.~~

Committee Notes 2016: Local Rule was amended to eliminate the first sentence of paragraph (b) because Local Rule 1005-1(d) now addresses sole proprietorships.

Rule 1005-3

Business Chapter 7

When a business files a chapter 7 bankruptcy, the Debtor's attorney shall contact the chapter 7 trustee assigned to the case within 24 hours of receiving the trustee assignment.

(a) The Debtor's attorney shall provide the following information to the trustee (regardless of whether the Schedules and Statement of Financial Affairs have been filed):

(1) Business address;

(2) Location of all assets;

(3) Confirmation that all business operations have ceased; and

(4) 4. Contact information for principal, director, president, CEO, managing member, partner or other individuals in charge of operations and financial records.

(b) In addition, the Debtor's attorney shall arrange for turnover of the following property and information to the Trustee:

(1) Keys and passwords to access buildings, mail or post office boxes, vehicles, computers, and other assets; and

(2) Access to all bank accounts and all banking information.

Committee Notes 2016: To ensure that a business ceases operations upon filing a chapter 7 bankruptcy case and all assets are turned over to the trustee assigned to the case as of the Petition Date.

Rule 1006-1

Filing Fee

(a) Petition Filing Fee/Installments.

~~(1) **Filing Fee Due.** The court is required to collect the filing fee set forth in 28 U.S.C. § 1930 at the time the petition is filed. In a represented case, the attorney is responsible for paying the filing fee. In a non-represented case, the debtor is responsible for paying the fee. The Clerk shall not accept a filing fee from a third-party.~~

(2) Paying the Filing Fee in Installments. Only an individual debtor may file an application and be permitted to pay the filing fee in installments. Corporations, partnerships, limited liability companies, unincorporated associations, trusts and other artificial entities shall pay the filing fee in full at the time the petition is filed. In a represented case, an application to pay in installments may only be filed after counsel files a Disclosure of Compensation Paid as required by F.R.B.P. 2016(b).

~~(3) **Minimum Payment.** If an individual debtor files a petition without payment of the full filing fee and without seeking a fee waiver pursuant to 28 U.S.C. § 1930(f), a minimum payment of \$5080.00 must accompany the petition, unless the court otherwise orders. If the debtor is unable to make the initial payment at the time of filing the petition, an order will be entered requiring the debtor to make the initial payment of \$5080.00 within 14 days of the entry of the order and providing that the case shall be dismissed without further notice if the minimum payment is not made within the time specified.~~

~~(3) **Previous Cases Filed.** If the debtor files a~~ **(4) Minimum Payment.** If an individual debtor files a petition without payment of the full filing fee and without seeking a fee waiver pursuant to 28 U.S.C. § 1930(f), a minimum payment of \$80.00 must accompany the petition. If the debtor fails to make the initial payment at the time of filing the petition, an order will be entered requiring the debtor to make the initial payment of \$80.00 within 14 days of the entry of the order. The case shall be dismissed without further notice if the minimum payment is not timely paid.

(5) Previous Cases Filed. If the debtor files a new case without payment of the full filing fee when the debtor owes a filing fee from a prior case, an order will be entered requiring the debtor to pay the entire filing fee in full for the new case within 14 days of the entry of that order and providing that if said full payment is not timely made, the debtor's new case shall be dismissed without further notice.

~~(4) **Chapter 7, 11, 12 and 13 Individual Voluntary Cases.** Any order granting an application to pay the filing fee in installments shall order the final installments paid prior to 120 days from the date of the filing of the petition or, for cause shown, no longer than 180 days from the date of the filing of the petition.~~

~~(5)(6)~~ **Prohibited Payments.** Until the filing fee is paid in full, the debtor shall not make any further payments to a debt relief agency and no person shall accept any property as payment for services in connection with this case.

~~(67)~~ **Waiver of Chapter 7 Filing Fee.** ~~An order denying an application~~ The standard applied in the review of a request to waive the chapter 7 filing fee ~~may provide for payment of the filing fee in as many as four installments with the last installment due no longer an individual debtor is a determination that such individual has income less than 180 days from the date~~ 150 percent of the filing income official poverty line applicable to a family of the petition size involved and is unable to pay fee in installments.

(b) Adversary Proceeding Filing Fee.

(1) The filing fee required by 28 U.S.C. § 1930(b) shall be paid upon the filing of a complaint or the notice of removal initiating an adversary proceeding.

~~(2)~~ When an adversary complaint is filed by a chapter 7 trustee, if there are insufficient funds in the estate to pay the filing fee at the time the complaint is filed, the trustee may request that the fee be deferred until the estate does hold sufficient funds to pay the fee.

(3) Failure to pay the filing fee as required in this Rule shall result in dismissal of the adversary proceeding without prejudice.

(c) Miscellaneous Proceeding Filing Fee.

(1) The filing fee required by 28 U.S.C. § 1930(b) shall be paid upon the filing to register a judgment entered by another bankruptcy court or other miscellaneous filing.

(2) Failure to pay the filing fee ~~as required in this Rule~~ shall result in ~~the filing being deemed lodged, not filed, and no further action will be taken on the filing and the Clerk will close the miscellaneous proceeding after 28 days.~~

(d) Form of Payment.

(1) Except as provided in subsection (2) for attorney electronic filings, all filing fees and other court costs payable to the ~~clerk~~ Clerk shall be made ~~in cash~~, by certified check or money order, or by check drawn on the account of an attorney admitted to practice before this court or a business check of a process server or trustee and shall be made payable to "Clerk, U.S. Bankruptcy Court."

(2) For attorney electronic filings that require a fee, the fee shall be paid by using a credit card or debit card on-line through the ECF Internet filing fee payment process no later than 72 hours from the filing of the document. The credit card or debit card used to pay the filing fee must be that of the attorney or law firm that represents the party; use of a party's credit card or debit card is prohibited. ~~A Any document, other than a petition, electronically filed that requires a filing fee shall be deemed lodged, and not~~

~~filed, and may result in the court taking~~ no further action ~~shall be taken~~ until the filing fee is paid. Failure to timely pay the filing fee constitutes good cause for the ~~elerk~~Clerk to suspend the filer's ECF password until such time as all outstanding fees are paid.

(3) Any check drawn on the account of an attorney or business check of a process server or trustee that is returned unpaid due to insufficient funds or for any other reason shall incur a fee. ~~The fee shall be paid in cash, by certified check or money order within 48 hours of notification that the check has been returned.~~ Failure to pay the amount due within 48 hours, or the second instance of a returned check may result in that attorney, process server, or trustee no longer being able to pay fees by check.

(e) Appellate Filing Fee. The filing fee shall be paid at the time of the filing of the notice of appeal or cross-appeal to the ~~elerk~~Clerk of the bankruptcy court as provided above. The filing fee incurred when the Circuit Court of Appeals accepts a direct appeal from the bankruptcy court shall be paid to the ~~elerk~~Clerk of the bankruptcy court in the manner directed by the ~~elerk~~Clerk.

Committee Notes ~~2011: 2016: In~~ Subsection ~~(d)(2) a)(3)~~ the minimum payment has been ~~amended by General Order 105; the changes are effective January 28, 2011.~~

~~Committee Notes 2009: Time deadlines have been amended increased from \$50.00 to be consistent with amendments \$80.00 to reflect increases in the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

~~Committee Notes 2007: filing fee made in recent years. Subsection (e) added a)(7) is new to provide set forth standards for filing fees incurred by filing of miscellaneous filings. Subsection (d)(2) added to incorporate payment of filing fees on-line by when a waiver may be granted. Minor technical and language corrections were made throughout the attorney when e-filing a document that incurs a filing fee. Adopted from ECF Operating Order No. 8. Subsection (e) includes a new fee incurred when a direct appeal to the Circuit Court of Appeals is accepted by that court rule.~~

Rule 1007-1

Lists, Schedules and Statements

(a) Master Mailing List.

(1) A master mailing list shall be filed with the petition in the format specified by the clerk. The clerk may also require that the master mailing list be electronically submitted. Unless otherwise ordered, the master mailing list shall include the names and addresses, including zip codes, of all creditors and equity security holders, in alphabetical order.

(2) When an addition or change is made to the master mailing list, the entire master mailing list shall not be filed or electronically submitted. Only a supplemental master mailing list, in the required format, containing only the newly added or changed creditors shall be filed and electronically submitted.

(3) If a master mailing list submitted for filing does not comply with the specified requirements, the clerk shall immediately notify the debtor's attorney or debtor, if pro se, of the fact. The debtor shall have seven days from the filing of the petition to file a master mailing list in compliance with the specified requirements. Failure to timely file a properly formatted master mailing list shall be cause for dismissal of the petition without further notice or a hearing.

(b) List of 20 Largest Creditors. In a chapter 9 or chapter 11 case, the list of twenty largest unsecured creditors required to be filed with the petition shall include the creditors' phone and facsimile numbers and e-mail addresses, if known.

(c) Declaration. An original executed declaration containing a verification of the petition, lists, schedules, statement of affairs and debtor's social security number, in the form prescribed by the clerk, shall be filed with the clerk as a separate document. Failure to timely file the signed original declaration within 21 days after the date the petition was filed or, in the event an extension has been granted to file the schedules and statements, no later than seven days after the schedules and statements are filed shall result in dismissal of the case without further notice.

(d) Statement of Social Security Number. If a debtor fails to submit the Statement of Social Security Number required by Bankruptcy Rule 1007(f) with the petition, the debtor shall have seven days from the date of the filing of the petition to submit the statement. Failure to submit the statement within seven days of the filing of the petition shall be cause for dismissal of the petition. In place of submitting a Statement of Social Security Number, the attorney for the debtor may submit the debtor's social security number electronically when opening the case on CM/ECF and include in the Declaration Re: Electronic Filing debtor's declaration that the social security number is true and correct.

(e) Statement that Means Test Does Not Apply. A chapter 7 individual debtor who is not required to file a Statement of Current Monthly Income and Means Test Calculation because his or her debts are not primarily consumer debts shall file a statement to that effect.

(f) Payment Advices. To comply with Code § 521(a)(1)(B)(iv), the debtor shall file a Declaration in the following form and check the appropriate box.

(g) Declaration of Debtor without an attorney. In a case in which the debtor is not represented by an attorney, the debtor shall file a completed Local Form 1007-1 “Declaration Under Penalty of Perjury for Debtor(s) Without an Attorney” available on the Court’s website. The deadline to file the Declaration form is fourteen days after the petition is filed.

Declaration of Evidence of Employers’ Payments Within 60 Days

Attached hereto are copies of all payment advices, pay stubs or other evidence of payment received by the debtor from any employer within 60 days prior to the filing of the petition;

Debtor has received no payment advices, pay stubs or other evidence of payment from any employer within 60 days prior to the filing of the petition; or

Debtor has received the following payments from employers within 60 days prior to the filing of the petition: \$_____.

Debtor declares the foregoing to be true and correct under penalty of perjury.

Dated: _____
Signature of Debtor

~~Committee Notes 2009: Time deadlines have been 2016: Limits extension of time to file papers to 7 days prior to initial 341 meeting. For amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

~~Committee Notes 2007: Changes in Subparagraph (a)(1) and (documents, see 1009-2) incorporate provisions from the ECF Interim Operating Order No. 8. Subparagraph (a)(4) change from ten to five days incorporates changes by General Order No. 94 due to BAPCPA’s requirement that clerk give notice in certain cases within 10 days. The Declaration of the filing Evidence of the petition, necessitating that the mailing list be submitted before then. Subparagraph (a)(3) of the old rule was deleted as it Employers’ Payments is now found in Rule 2090-1. Subparagraph (b) adds requirement for e-mail addresses. Subparagraph (e) is incorporated from ECF Interim Operating Order No. 8. Subparagraph (d), (e) and (f) incorporate changes made in General Order No. 94 and in Interim Rule 1007an appendix.~~

Rule 1015-1

Consolidation or Joint Administration of Cases

(a) Related Cases. Whenever more than one bankruptcy case is filed or pending in which the debtor entities are related or the cases are otherwise related, counsel may file a motion to transfer the assignment of the cases to a single judge. The motion shall specify the reasons for having the related cases heard by one judge. The motion to transfer the assignment shall be filed in the lower numbered case only. It shall identify the other cases to be assigned by case name and number in the body of the motion. The judge assigned the lower numbered case will rule on the motion.

(b) Joint Administration/Substantive Consolidation. A motion for joint administration or for substantive consolidation shall include therein a motion to transfer the assignment of the cases to be jointly administered or substantively consolidated if those cases are not all assigned to one judge. If joint administration is ordered, any filing thereafter shall designate if such filing applies to all debtors or a specific debtor. If substantive consolidation is ordered, any filing shall be made in the designated remaining case.

(c) Filings after Joint Administration. All pleadings shall be filed in the designated lead case except proofs of claims or interests and Monthly Operating Reports, which should be filed in the case to which such items are related.

Committee Notes 2016: Clarifies filing procedures in jointly administered and substantively consolidated cases.

Rule 1017-1

Dismissal of Case

(a) Notice of Proposed Dismissal. Notice of the proposed dismissal of a case for failure to file in a timely manner the schedules, statements or chapter 11, 12 or 13 ~~plan~~Plan shall be given in the notice of meeting of creditors to all creditors and other interested parties.

(b) Dismissal Without Further Notice. Failure of the debtor to file in a timely manner the documents required by the Rules or the Local Rules or to appear at the meeting of creditors shall be cause for dismissal of the bankruptcy case without further notice. Notwithstanding Code § 521(i)(1), no case shall be deemed dismissed except upon entry of an order of dismissal.

~~**(c) Reinstatement.** A case dismissed for failure of the debtor to timely file a required document or for failure to appear at the meeting of creditors may be reinstated on motion of the debtor pursuant to Bankruptcy Rule 9024, provided that all required documents are filed, or on motion of another party. The clerk shall not close a dismissed case until 60 days after the date of dismissal.~~

~~**(d)(c) Motion to Dismiss by Chapter 7 Debtor.**~~

1. Motion. Any motion to dismiss a case shall state:

A. whether the case has been previously converted from another Chapter of Title 11 and,

B. if there are any pending motions to convert or dismiss with prejudice.

2. Service. Motion shall be served on the case trustee, the United States Trustee and any interested party who has appeared in the case.

3. Objection. An objection to the motion must be filed in accordance with Local Rule 9013-1(c).

A. Hearing. If an objection is filed, the movant must schedule a hearing on the motion to dismiss and the objection, giving a minimum of fourteen (14) days notice to the objecting party, the case trustee and the United States Trustee, unless otherwise instructed by the Court.

4. No Objection. If no objection to movant's motion is filed, the Court may enter an order dismissing the case.

~~**(d) Motions to Dismiss by Parties Other than Debtor.**~~

1. Motion. A motion seeking dismissal of a case pursuant to Code § 521(i)(2) must be filed by a creditor or party in interest along with a notice requiring a response to be filed within fourteen (14) days of service. The motion shall state the missing one or more of the six items identified in Code § 521(a)(1)(A) and (a)(1)(B)(i) through (v). If the docket contains a filing denominated as such but which the moving party contends fails to include all the contents required by Code § 521(a)(1) or required by the Bankruptcy Rules, Local Rules or Official Forms, the motion shall identify the alleged deficiency.

2. Service. The movant shall serve the motion on the debtor, debtor's counsel if debtor is represented, the case trustee, the United State Trustee and any interested party who has appeared in the case.

3. Objection. An objection to the motion must be filed in accordance with Local Rule 9013-1(c).

A. Hearing. If an objection is filed, the movant must schedule a hearing on the motion to dismiss and the objection, giving a minimum of fourteen (14) days notice to the objecting party, the Case Trustee and the United States Trustee, unless otherwise instructed by the Court.

4. No Objection. If no such objection is timely filed, the Court may dismiss the case without further notice or hearing.

(e) Dismissal with Prejudice.

1. Unless otherwise stated in the dismissal order, an order dismissing a bankruptcy case that provides that the dismissal is with prejudice means that the debtor is prohibited from filing another bankruptcy petition for 180 days from the date that the dismissal order is entered upon the docket.

2. If the debtor attempts to file a subsequent bankruptcy petition within the 180 day period, the clerk is directed to accept the petition for filing, to assign the new case to the judge that entered the dismissal order, and to immediately generate and present to the court an appropriate Order to Show Cause as to why the new case should not be dismissed based on the court's prior order. The Order to Show Cause will then be set and treated as an expedited matter.

3. Nothing in this rule prevents the clerk from obeying a specific order entered by a judge of this court. Nor does this rule prohibit a judge from entering such further orders or injunctions as are necessary to prevent an abuse of the bankruptcy process or to prohibit frivolous pleadings and filings, based on the facts of that particular case.

~~(e) Order for Dismissal.~~

~~1. Notwithstanding Code § 521(i)(1), no case shall be deemed dismissed except upon entry of an order of dismissal.~~

~~2. If a party moves for dismissal pursuant to Code § 521(i)(2) and if such motion specifically requests dismissal within seven days, the Court may dismiss the case without further notice or hearing if the docket is missing one or more of the six items identified in Code § 521(a)(1)(A) and (a)(1)(B)(i) through (v). If the docket contains a filing denominated as such but which the moving party contends fails to include all the contents required by Code § 521(a)(1) or required by the Bankruptcy Rules, Local Rules or Official Forms, the motion shall identify the alleged deficiency. The movant shall serve the motion on the debtor and the trustee along with a notice requiring a response to be filed within 14 days of service. If no such response is timely filed, the Court may dismiss the case without further notice or hearing. If a response is timely filed, the Court will either rule on it or set it for hearing.~~

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

(f) Reinstatement.

1. Motion. A case dismissed for failure of the debtor to timely file a required document, for failure to appear at the meeting of creditors or failure to pay a fee may be reinstated on motion of the debtor pursuant to Bankruptcy Rule 9024 or on motion of another party. The motion shall state the following:

A. reason for case dismissal;

B. explanation of debtor or debtor attorney's failure to comply with court requirements resulting in dismissal of the case; and

C. description of actions taken to remedy the reason for the dismissal such as filing of required documents or proof of payment of the required fee.

The clerk shall not close a dismissed case until 60 days after the date dismissal was entered.

2. Service. A debtor shall serve the motion to reinstate on the case trustee, the United States Trustee and any interested party who has appeared in the case.

3. Objection. An objection to the motion to reinstate must be filed within fourteen (14) days of service of the motion.

A. Hearing. If an objection is filed, the debtor must schedule a hearing on the motion to dismiss and the objection, giving a minimum of seven (7) and a maximum of fourteen (14) days notice to the objecting party, the Case Trustee and the United States Trustee.

4. No Objection. If no objection to debtor's motion is filed within fourteen (14) days, the Court may enter an order reinstating the case.

Comments/Intent of rule and revision:

Clarify the grounds for dismissal and provide a notice period for parties in interest to object, if applicable.

This rule was significantly overhauled to be in compliance with Fed.R.Bank.P. 1017 and 2002 and to institute the reinstatement provision in the rule.

Rule 1019

Conversion of Case

(A) Conversion Upon Debtor's Request.

(1) Conversion from Chapter 7 to Chapter 11, 12 or 13.

(a) Motion. A motion shall be filed for conversion under 11 U.S.C. § 706(a) to a case under chapter 11, 12 or 13.

(b) Notice. A notice which provides fourteen (14) days to respond shall accompany the motion.

(c) Service. A motion for conversion under 11 U.S.C. § 706(a) shall be served upon the case trustee, the United States Trustee, and any parties in interest.

(d) Entry of Order. If an objection is not timely filed and served, movant shall file a certificate of service and no objection and lodge the proposed form of order.

(2) Conversion from Chapter 12 or 13 to Chapter 11.

(a) Motion. A motion shall be filed for conversion under 11 U.S.C. § 1208(e) or 11 U.S.C. § 1307(d) to a case under Chapter 11.

(b) Notice. A notice which provides fourteen (14) days to respond shall accompany the motion.

(c) Service. A motion for conversion under 11 U.S.C. § 1208(e) or 11 U.S.C. § 1307(d) shall be served as required by Fed. R. Bankr. P. 9013.

(d) Entry of Order. If an objection is not timely filed and served, movant shall file a certificate of service and no objection and lodge the proposed form of order.

(3) Conversion from Chapter 12 or 13 to Chapter 7.

(a) Notice. A notice shall be filed for conversion under 11 U.S.C. §§ 1208(a) or 1307(a) to a case under Chapter 7.

(b) Service. A notice for conversion shall be served upon the case trustee, the United States Trustee, and any other parties in interest.

(4) Conversion from Chapter 11 to another Chapter.

(a) Notice. Notice of a motion to convert a case from Chapter 11 to any other Chapter shall be filed and served on all parties entitled to notice.

(b) Entry of Order. If an objection is not timely filed and served, movant shall file a certificate of service and no objection and lodge the proposed form of order.

(c) Duties Upon Conversion from Chapter 11 to Chapter 7. Upon entry of an order, any debtor-in- possession or Chapter 11 trustee previously acting in the case shall, in addition to complying with those duties set forth in Fed. R. Bankr. 1019:

(1) Secure, preserve, and refrain from disposing of property of the estate;

(2) Conference with the appointed Chapter 7 trustee regarding the turnover requirements set forth under Fed. R. Bankr. P. 1019(4); and

(3) Within 14 days after entry of an order converting the case, file and serve upon the United States Trustee and the Chapter 7 trustee, a verified schedule of all property of the estate as of the conversion date.

(5) Conversion by One Debtor Under a Joint Petition.

(a) Motion. A motion shall be filed for conversion when only one of two joint debtors in a joint petition files a motion to convert.

(b) Notice. A notice which provides fourteen (14) days to respond shall accompany the motion.

(c) Service. A motion shall be served upon the other debtor, the case trustee, the United States Trustee, and any other party in interest.

(d) Entry of Order. If an objection is not timely filed and served, movant shall file a certificate of service and no objection and lodge the proposed form of order. Upon Order granting conversion, the clerk shall divide the case into two separate cases and assign a case number to the new case. Both debtors shall file all necessary amendments to the schedules and statement of financial affairs within fourteen (14) days of the division of the case in each corresponding case.

(B) Objection.

(1) An objection to conversion shall be served and filed on all parties entitled to notice within fourteen (14) days of service of the notice of a motion to convert.

(2) If a timely objection is filed and served, movant shall obtain a hearing date from the court and file a notice of hearing. Movant shall serve the notice of hearing on the objecting party and file a certificate of service with the Court prior to the hearing.

(C) Schedules Required in Converted Cases. Where a case is converted to another Chapter, the debtor shall file amended schedules, statements, and documents as required by Fed. R. Bankr. P. 1019 and 1007(b)(1), (4), (5), and (6).

(D) Additional Fees Upon Conversion of a Case.

(1) A motion for conversion of a case must be accompanied by payment of the filing fee, if any, required for conversion of the case to the Chapter for which conversion is sought.

(2) If a request to convert a case is denied, the filing fee paid when the request was filed will not be refunded. Comments/Intent of rule and revision: Purpose of Changes:

Committee Notes: No LR on conversion exists. Followed the sequence provided and entered conversion rule under 1019, not sure if 1017-2 is the correct place. Specific areas of concern to subcommittee members were objection periods for distribution of funds, unclaimed funds, and time limits for funds such as administrative fees.

Rule 2002-1

Notices to Creditors

(a) Motions and Applications. It shall be the responsibility and duty of the movant or the applicant, ~~except for the United States Trustee and case trustee,~~ to give the required notice of the hearing set on the motion or application or of the bar date by which an objection is to be filed if a hearing is not required.

(b) Discretion of the Court. Notwithstanding the provisions of this Local Rule, the court may order that a particular party shall be responsible for any or all noticing to ~~creditors~~parties in interest.

(c) Forms of Notice. Whenever a motion or application is filed which is required to be noticed or requires a hearing, the movant or applicant shall provide the form of notice.

(d) Service on Certain Interested Parties. In all cases, if any notice is not required to be mailed to all ~~creditors~~parties on the Master Mailing List or the Official Service List, but instead is required to be served only on certain interested parties, the moving party or applicant shall serve those interested parties.

(e) Preferred Addresses.

(1) An entity and a notice provider, ~~to include~~including the Bankruptcy Noticing Center, may agree that when the notice provider is directed by the Court to give a notice to ~~that~~such entity, the notice provider shall give ~~the~~ notice to the entity in the manner agreed to and at the address or addresses the entity supplies to the notice provider. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.

(2) The filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by a ~~creditor~~an entity directly with the agency or agencies that provide noticing services (currently the Bankruptcy Notice Center) for the Bankruptcy Court will constitute the filing of such a notice with the Court.

(3) Registration with the National Creditor Registration Service must be accomplished through the agency (currently the Bankruptcy Noticing Center) that provides noticing services for the Bankruptcy Court. Forms and registration information is available at <https://ncrs.uscourts.gov/>.

Committee Notes 2016: References to creditor broadened to avoid doubt that rule applies to all moving parties when notice must be provided.

Pursuant to Local Rule _____, service through the Bankruptcy Court's Electronic Court Filing (ECF) system is proper service.

Rule 2002-2

Procedures for 21-Day Negative Notice

(a) Negative Notice. A twenty-one (21) day negative notice procedure is appropriate in all matters described in Local Rule 9013-1(k).

(b) Form of Notice. The moving party must serve a detailed notice of the motion on all parties entitled to notice. The notice must clearly state the requirement to respond within the time allowed. The moving party must file a certificate of service.

(c) Time. Upon expiration of the time stated and provided that no objections have been filed, the moving party may file a certificate of service and of no objection and lodge an appropriate order granting the relief requested. The lodged order must conform to the relief requested in the motion. If an objection is filed, the movant must obtain a hearing date, serve notice of the hearing on all parties entitled to notice and file a certificate of service.

Committee Notes 2016: The purpose of this rule is to provide a reference to Local Rule 9013- 1(k) “Motions” which outlines which matters are appropriate for negative notice in the “Notice” section of the local rules. The goal is to eliminate the need for specific 'Judges' Procedures' for negative notice matters.

Rule 2004-1

Time Limits to Compel Examination or Production of Documents

(a) A Motion for a 2004 Examination may not request the attendance of any entity or person for an examination without 14 days' notice.

(b) A Request for Production of Documents may not request the production of documents by any entity or person without 14 days' notice.

(c) A Motion for a 2004 Examination with a request for production of documents may not request the productions of documents by any entity or person without 14 days' notice, and may not request the attendance of any entity or person for an examination without 14 days' notice.

(d) Nothing in this rule shall prohibit parties from stipulating to an earlier or later production or examination. Nor shall anything in this rule prohibit a Court from shortening the notice period of an examination or production pursuant to a request made by the movant under Local Rule 9013-1.

Committee Notes 2016: Rule 2004 Orders are granted ex parte without time to respond. Simply because an Order is entered does not create a presumption that the request is permissible in the event the Order is put at issue either through a Motion for Reconsideration, Motion for Protective Order, or a Motion to Compel.

No Motion for Reconsideration, Motion for Protective Order, or a Motion to Compel pursuant to a Rule 2004 Order or any dispute as to the scope or time of a 2004 Order will be considered unless a statement of the moving party or its counsel, if represented, is attached certifying that after personal consultation and sincere efforts to do so, the parties have been unable to resolve the matter. Pursuant to Local Rule 9013-1(f).

Rule 2014-1

Compensation of Professionals on a Fixed or Contingent Basis

(a) Except for real estate agents, brokers, and auctioneers employed on a stated commission basis standard in the industry for the type of property involved, or as otherwise ordered by the court, all professional fees will be subject to review for reasonableness pursuant to Bankruptcy Code § 330(a)(3) unless both the application and order for employment state, expressly and conspicuously, and preferably in the caption and the body of the document, that the fees are to be calculated, in whole or in part, on a fixed or percentage fee basis, subject to the court's right under Bankruptcy Code § 328(a) to adjust such fees if the terms and conditions of employment prove to have been improvident in light of developments that could not have been anticipated at the time that they were approved by the court.

(b) Disclosure of Retention of Professionals. Any professional person who seeks to be reimbursed or compensated by the estate or by third parties for the benefit of the estate must promptly disclose its employment, pursuant to the Bankruptcy Code and the Bankruptcy Rules. Any estate professional who retains another professional for the purpose of benefitting the estate shall also promptly disclose such retention. If, however, such disclosures would cause privileged information or confidential litigation strategy to be revealed, the Court may allow such disclosure to be made under seal, upon an appropriate motion.

Committee Notes 2007: This Rule is derived from former General Order 85.

Committee Notes 2016: Revised to add subpart (b) regarding retention of estate professional by other estate professionals or third parties, such as expert witnesses.

Rule 2015-1

Interim Reports

(a) Chapter 11 and 12 Interim Reports. In all chapter 11 and 12 cases, on a monthly basis until the plan is confirmed or the case is converted or dismissed, the case trustee, debtor in possession, or other responsible person shall file with the court an interim operating report or reports in substantial compliance with such local forms as developed by the United States Trustee.

(b) Other Interim Reports. In addition to the foregoing, the court, upon motion, may require the filing of interim operating reports in any case.

Committee Notes 2016: The current version of the United States Trustee's Guidelines for reports may be found at: <http://www.azb.uscourts.gov/chapter-11-operating-reports>~~Committee Notes 2007: Most of chapter 13 practice is governed by General Order 83 and Local Rules inconsistent with General Order 83 were invalidated; however, some of the Local Rules in the 2083 series are in effect. It is the intent of the Committee that any changes to Local Rule 2083 not substantively change chapter 13 practice for those cases.~~

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Rule 2084-1

Scope - Chapter 13 Rules

Local Rules 2084-1 through 2084-~~26~~28 govern chapter 13 practice ~~in cases filed after October 16, 2005.~~

~~Committee Notes 2007: The 2084 series is for cases filed after October 16, 2005. Gaps in the numbering of the rules are to allow spacing for future rules. Except for Rule 2084-26, the provisions come from GO 95.~~

Rule 2084-2

Filing Requirements

(a) Application to Pay Fee in Installments. If the debtor ~~is~~does not ~~paying~~pay the entire fee with the petition, the debtor shall file ~~with the petition~~ an application for payment of the filing fee in installments with the petition.

(b) Statement of Financial Affairs and Operating Reports. If the debtor is self-employed or engaged in business, the debtor also shall:

(1) Complete the portion of the Statement of Financial Affairs for a debtor who is self-employed or engaged in business; and

(2) File a monthly operating statement for the month in which the debtor filed the petition and ongoing monthly operating reports for the self-employment or business. ~~The case, through confirmation of a plan, unless otherwise requested by the trustee may designate the form of the operating statement the debtor must. Debtor shall use~~ Local Form 2084-2.

(c) Dismissal for Failure to File Documents. If a debtor files a petition without the documents required by Bankruptcy Code § 521, ~~and~~ and the federal ~~or~~and local rules of bankruptcy procedure ~~and, when applicable, paragraph (b),~~, the debtor shall file the missing documents within the time periods specified in the federal, interim or local bankruptcy rules of procedure ~~or, if~~. If cause exists, the debtor may file a motion within that time to obtain an order extending the time to file the documents. Rarely will the court grant an extension of time of more than 28 days after the petition ~~date to file the statement of financial affairs, schedules, original plan, attorney's disclosure of compensation, the documents required by Bankruptcy Code § 521 or paragraph (b), or. If a certificate of service of the plan. If a debtor timely~~debtor fails to timely file the documents, then the court may dismiss the case without further notice or a hearing, the ~~case~~-trustee may uploadlodge a dismissal order, or a party in interest may file a motion to dismiss the case.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

Rule 2084-3

Attorney Fees

(a) Plan Application for Payment. Unless the attorney files or will file a separate fee application, a chapter 13 plan (original, amended, modified) or a motion for a moratorium (collectively the “plan”) shall contain an application for payment of compensation for services rendered or to be rendered by the attorney representing the debtor. ~~The plan shall include in its title “Application for Payment of Administrative Expenses” or similar language.~~

~~**(b) Amount Sought and Services Provided.** Any application in the plan for payment of attorney fees separately shall disclose the amount of compensation sought, whether the compensation is a flat, hourly or a contingent fee, and is to include a comprehensive statement of the legal services provided and to be provided. The application also may include a list of flat fee services which may be performed by debtor’s counsel post confirmation where additional compensation is sought. The application must state the amount of the flat fee and specify what service is to be rendered for the debtor. The application need not state the actual time expended or to be expended, but shall provide generally the services performed, promised or contemplated.~~

~~**(c) Payment Upon Dismissal.** When the court dismisses the case before confirming a plan, and the deadline for creditor and case trustee objections have passed, the dismissal order may include approval of the attorney fees or debtor’s counsel may upload an order approving the fees.~~

~~**(d) Attorney Disclosure.** **(b) Amount Sought.** If the amount is less than or equal to the No Look amount set forth in Local Form 9010-13A, the plan shall state such amount. If the amount sought is greater than the No Look amount and a separate application is to be filed, then the plan shall provide a reasonable estimate of the amount to be sought.~~

~~**(c) Attorney Disclosure.** The fees sought in the plan must be consistent in amount and description with the attorney’s Rule 2016(b) disclosure statement. The disclosure statement shall have a comprehensive narrative explanation of the services rendered or to be rendered, and the expenses incurred and to be incurred.~~

~~**(e) Additional Fees.** Absent disclosure of additional attorney fees post confirmation in the debtor’s plan as specified in paragraph (b), or except for payment for fees without obtaining a court order authorizing the fees and specifically permitting direct payment of those fees, the debtor’s attorney must file an amended Rule 2016(b) statement within 14 days of receipt of any additional funds paid post petition.~~

~~**(f)(d) Separate Application.** Nothing in this Local Rule prohibits If a debtor’s attorney from filing files a separate fee application or for payment of fees in excess of the~~

~~court from ordering~~ No Look amount set forth in Local Form 9010-13A, then the attorney to file a separate fee application pursuant to must comply with Local Rule 2016(a)9010-13A(d)(3).

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

(e) Payment Upon Dismissal. When the court dismisses the case before confirming a plan, and the deadline for creditor and trustee objections have passed, the dismissal order may include approval of the attorney fees or debtor's counsel may file a Certificate of No Objection and lodge an order approving the fees within seven days after entry of the Dismissal Order.

Rule 2084-4

Plan

~~(a) **Plan Requirements.** In addition to the requirements of Bankruptcy Code § 1322(a), a plan shall be in the form of Local Plan Form 13-2 and shall have:~~

~~(1) The debtor's estimate of the value of each secured claim, the method of determining the value, (examples such as Kelley Blue Book, appraisal, or debtor opinion) and the amount to be paid on each secured claim;~~

~~(2) The interest rate to be paid on each mortgage arrearage or other secured claim;~~

~~(3) A statement that the debtor has filed all tax returns or which returns are unfiled;~~

~~(4) The signatures of the debtor and debtor's attorney, in the form allowed or required by the ECF interim operating order; and~~

~~(5) A Local Form 13-2 plan analysis.~~

(a) **Plan Requirements.** Local Form 2084-4 shall be used for all original, amended, or modified plans. All sections of the plan shall be completed, or if not applicable marked with N/A or NONE. The treatment of all known secured or priority creditors shall be disclosed in the Chapter 13 plan. Varying provisions must be specific, relevant, substantive, and not superfluous, redundant, or inconsistent with the Bankruptcy Code or Rules.

(b) Amended Plan. Other than the original plan, a plan filed before entry of an order of confirmation of a plan shall be entitled "Amended Plan."~~In an amended plan, a debtor needs only to include those terms and conditions that differ from the original plan.~~

(c) Modified Plan. A plan filed after entry of an order of confirmation of a plan shall be titled as a "Modified Plan."~~In a modified plan, a debtor needs only to include those terms or conditions that differ from the plan confirmed by the court and the order confirming plan.~~A modified plan must be in form of Local Form 2084-4, and must take into account disbursements made to creditors.

~~Committee Notes 2010: Rule amended to require plan to be in the form of Local Form 13-2, Chapter 13 Plan and Application For Payment of Administrative Expenses, effective January 1, 2010.~~

Rule 2084-5

Tax Returns

Unless the court grants a motion for an extension of time, if a debtor fails to comply with Bankruptcy Code § 521(e) or (f), or § 1308(a), the ~~case~~-trustee may ~~upload~~lodge a dismissal order and the court may summarily dismiss the case, or the ~~case~~-trustee may file a motion to dismiss. The Notice of Commencement of Case issued by the Clerk's Office shall include a statement that the Court may summarily dismiss the case for failure to file the required tax returns. If the debtor elects to provide a transcript in lieu of a return, the debtor shall provide a "Tax Return Transcript" that includes a line item summary with substantially similar information as provided on the tax return. A simple account transcript that summarizes the financial status of the account, date of filing, assessments, and so forth, is not substantially similar to a tax return and fails to meet the requirements of Bankruptcy Code § 521(e) or (f).

Rule 2084-6

Adequate Protection Payments

(a) Plan Proposal. A plan shall propose monthly adequate protection payments to creditors secured by depreciating personal property to be included in the plan payments, beginning with month one. Unless the court orders otherwise, the debtor shall not make adequate protection payments directly to any creditor or reduce the amount of the plan payments made to the case trustee for any amount attributable to the adequate protection payments.

(b) Trustee Payment. The ~~ease~~ trustee is authorized to make pre-confirmation adequate protection payments to one or more secured creditors if:

- (1) The plan provides for payment of the adequate protection payments;
- (2) The debtor's Schedule D discloses the debt and describes the collateral;
- (3) ~~The creditor has filed a~~ secured proof of claim is filed, with documentation evidencing a perfected security interest, ~~that asserts a purchase money security interest~~ in the ~~personal~~ property;
- (4) The debtor or creditor sends a ~~letter request~~ to the ~~ease~~ trustee requesting for payment of pre-confirmation adequate protection payments set forth in the plan ~~along with a copy of the secured proof of claim~~; and
- (5) ~~The~~ As to personal property, the collateral is depreciating and the amount of the adequate protection payments approximates the depreciation, which ~~for motor vehicles~~ is generally ~~in the range of~~ at least 1% of the value of the ~~vehiele~~ property per month.

(c) Payment Without Prejudice. Payment of pre-confirmation adequate protection payments is without prejudice to the secured creditor's right to object to the plan, or seek a determination as to the value of the secured claim or amount necessary to provide adequate protection.

(d) Timing of Payments. The ~~ease~~ trustee is entitled to take the percentage fee from all adequate protection payments received or collected. To the extent the ~~ease~~ trustee has funds on hand, the ~~ease~~ trustee shall begin making pre-confirmation adequate protection payments if the ~~ease~~ trustee receives the ~~letter requesting pre-confirmation request~~ more than 14 days before the ~~ease~~ trustee's scheduled monthly distribution; otherwise the ~~ease~~ trustee will distribute adequate protection payments beginning with the next month's distribution. If the debtor has paid an insufficient amount ~~of money~~ to pay adequate protection payments in full, the ~~ease~~ trustee shall pay the creditors in pro rata amounts.

(e) Payment on Confirmation-or Dismissal. If the ~~ease~~-trustee has not made pre-confirmation adequate protection payments, the ~~ease~~-trustee shall promptly disburse the adequate protection payments after the court confirms the plan.

(f) Payment on Pre-Confirmation Dismissal. . If the court dismisses the case before confirmation of a plan, the ~~ease~~-trustee will pay the creditor any adequate protection payments due and owing, pursuant to sub-section (b) above or Court Order, from funds received by the ~~ease~~-trustee under Bankruptcy Code § 1326(a)(1)(A), less the statutory ~~ease~~-trustee's fee, then allowed administrative expenses. If the ~~ease~~ trustee is required to pay adequate protection payments to more than one creditor but the ~~ease~~ trustee has an insufficient amount of money to pay them in full, the ~~ease~~-trustee shall pay the creditors in pro rata amounts.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

Rule 2084-7

Continuance of Meeting of Creditors

(a) If the debtor fails to timely file the original plan such that the Court is unable to timely serve the plan within 28 days of the petition date, the trustee, in the trustee's discretion, may continue the meeting of creditors for a sufficient period for the Court to give notice of the plan and for creditors to receive at least 28 days of notice. The debtor shall contact the trustee for the date and time of the continued meeting of creditors and the trustee shall create a notice on the docket of the continued meeting.

(b) Unless otherwise indicated by the trustee, the debtor shall give notice of the continued meeting to all parties on the current master mailing list and file a certificate of service within three business days after the trustee provides the continued date and time. The master mailing list shall be considered current if it contains the PACER/ECF information and is downloaded from the Court within seven days before noticing.

Committee Notes 2016: Noticing a continued Meeting of Creditors usually done by trustee's office - but the option of the BNC noticing is left as an option.

Rule 2084-8

Serving the Plan or Motion for Moratorium

(a) Debtor Service of Plan. ~~The debtor shall~~Court will serve ~~on creditors, as required by Bankruptcy Code § 342 and Rules 7004 and 9014, the any plan (original, amended, modified) and plan analysis, or any~~ motion for a moratorium, ~~and with a notice containing the appropriate deadlines set forth below. A debtor, on creditors through the Bankruptcy Noticing Center. The debtor must serve a file any plan or motion for a moratorium in using the same manner as a plan.~~

(b) Service ~~applicable ECF filing event such that service of Amended and Modified Plans. A debtor needs only to serve nonmaterial changes in an amended or a modified plan on the case trustee and those creditors affected plan will be done by the changes. To be regarded as nonmaterial, the modification must not delay Court or reduce the dividend to be paid on any claim or otherwise modify the claim of affected creditor's consent. A material modification is considered a plan amendment or modification and must be noticed accordingly.~~

(c) Notice. ~~The notice served with a Bankruptcy Noticing Center. A plan or motion for a moratorium must shall not be in a form that provides the information required by this Local Rule. deemed properly filed for Bankruptcy Noticing out Center service unless the document is filed using the plan or a motion for a moratorium without the notice is insufficient applicable ECF filing event.~~

(d) Service by Unrepresented Debtor. ~~If the debtor is unrepresented by counsel, the debtor is required to timely notice any plan or motion through the case trustee. The case trustee will direct how the debtor is to do the noticing and will select, with the approval of the United States trustee, the mailing/copying service used by the debtor. The debtor shall pay the cost of this noticing.~~

(e) Time for Service. ~~Unless the court for cause orders otherwise, a debtor must accomplish service as follows:~~

(1) ~~For the original plan, the debtor must serve it within seven days of filing it or within 28 days after the petition date, whichever is earlier.~~

(2) ~~For an amended plan or pre confirmation motion for a moratorium, the debtor must serve it within seven days after filing it.~~

(3) ~~For a modified plan or post confirmation motion for a moratorium, the debtor must serve it within seven days of filing it.~~

(f) Continuance of Meeting of Creditors. ~~If the debtor fails timely and properly to serve the original plan, within 28 days of the petition date, the case trustee, in the case trustee's discretion, may continue the meeting of creditors for a sufficient period for the~~

~~debtor to notice out the plan and for creditors to receive at least 28 days of notice. The debtor shall contact the case trustee for the date and time of the continued meeting of creditors. Using an updated master mailing list, the debtor shall notice out the continued meeting to all parties entitled to notice and file a certificate of service within three business days after receiving the continued date and time from the case trustee. Also, within the same period, the debtor shall notice out the plan and the notice containing the deadline for creditor objections. If the debtor is pro se, the noticing of the plan and continued meeting of creditors may be combined. The new deadline for creditor objections shall be 14 days after the date of the continued meeting of creditors or 28 days after service, whichever is later. If the court dismisses the debtor's case before the debtor attends a meeting of creditors and then reinstates the case, the debtor shall notice or re-notice out the plan to creditors and file a certificate of service within three business days of receipt of the rescheduled meeting of creditors. The deadline for creditor objections shall be 14 days after the date of the meeting of creditors or 28 days after service, whichever is later.~~

~~**(g) Certificate of Service.** After the debtor serves any plan, motion for a moratorium, continued meeting of creditors, or reinstatement order, the debtor shall file a certificate of service within seven days. The certificate of service may be incorporated into the notice. The debtor shall attach a copy of the document being noticed, the mailing list used, and the notice mailed to the certificate of service. Instead of attaching the document noticed the certificate and docket entry may contain the appropriate reference to the ECF docket number. The debtor must use a master mailing list downloaded from the court within seven days before the noticing. The mailing list attached to the certificate of service must contain the PACER/ECF information.~~

~~**(h) Dismissal for Failure to Serve.** If the debtor fails timely to file and properly serve any plan or motion for a moratorium, or timely file a certificate of service, the case trustee may upload, and if uploaded **(b) Dismissal for Failure to Properly File.** If the debtor fails to properly file any plan or motion for a moratorium using the applicable ECF filing event, the trustee may lodge, and if lodged shall serve, a proposed dismissal order and, after 14 days, the court may dismiss the case without further notice or a hearing.~~

~~**(c) Certificate of Service.** After the Court or Bankruptcy Noticing Center serves any plan or motion for a moratorium, it shall file a certificate of service within seven days. The certificate of service may be incorporated into the notice. The certificate of service shall include a copy of the plan or motion, the mailing matrix used, and the bar date notice. Instead of attaching the document noticed, the certificate and docket entry may contain the appropriate reference to the ECF docket number.~~

~~Committee Notes 2009: Time deadlines have been amended to 2016: Established that notice will be consistent with amendments to through the Federal Rules of Bankruptcy Procedure, effective December 1, 2009BNC.~~

Rule 2084-9

Creditor Objection to Plan or Motion for a Moratorium

(a) Time for Filing Creditor Objection.

(1) For an original or amended plan, or pre-confirmation motion for a moratorium, the deadline for a creditor to file an objection to confirmation is 14 days after the date set for the first meeting of creditors or 28 days after service of the plan, whichever is later.

~~(2)~~ In the event of a continued Meeting of Creditors or reinstatement of the case, the deadline for creditor objections to the plan shall be reset to 14 days after the date of the continued meeting of creditors or 28 days after service of the plan, whichever is later. If the Court dismisses the debtor's case before the debtor attends a meeting of creditors and then reinstates the case, the Court shall give notice of the plan to creditors within three business days of receipt of the rescheduled meeting of creditors. The deadline for creditor objections shall be 14 days after the date of the meeting of creditors or 28 days after service of the plan, whichever is later.

(3) For a modified plan or post-confirmation motion for a moratorium, the deadline for a creditor to file an objection to confirmation is 28 days after the date of service of the plan.

(4) In the event that the case is dismissed after the Meeting of Creditors but before the expiration of the deadline for creditor objections, and is thereafter reinstated, the deadline for creditor objections shall be the original objection deadline or 14 days from the date of reinstatement, whichever is later.

(b) Nonobjection Is Acceptance. The failure of a party in interest to timely file an objection to confirmation of a plan or the granting of a motion for a moratorium shall constitute acceptance of the plan or motion pursuant to Bankruptcy Code § 1325(a)(5)(A) and a waiver of the requirement that the court hold a confirmation hearing within 45 days after the date of the meeting of creditors. Notice of the waiver of the 45-day confirmation hearing requirement and acceptance of the plan due to a creditor's failure timely to object shall be conspicuous in the notice of date to file objections served on all creditors.

(c) Valuation Objection. A secured creditor who disagrees with the valuation of the creditor's secured claim in the plan and who files an objection, shall state in the objection the creditor's estimate of the value of the collateral, the method of determining the value, and the amount of claim that is secured. Upon receipt of the creditor's objection and request, the debtor shall make the collateral available to the creditor for inspection and appraisal.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

Rule 2084-10

Trustee's Recommendation / ~~Objection~~Evaluation

(a) Trustee Recommendation/Evaluation. For any plan or motion for a moratorium, the ~~ease~~-trustee shall file a recommendation/~~objection by~~/evaluation within 28 days ~~after~~from the date set for the creditor objections.

(b) Debtor Compliance or Dismissal. The debtor shall comply with any~~all~~ requirements stated in the ~~ease~~-trustee's recommendation/~~objection~~evaluation requesting documentation or information, to move the case procedurally toward confirmation of the plan, or to pay any delinquent plan payments. ~~The debtor shall comply with the ease trustee's requests. Unless otherwise ordered by the court,~~ within 30 days after the ~~ease~~-trustee files the recommendation/~~objection~~evaluation, the debtor shall either comply with the trustee's requests or shall obtain a hearing date and file a Notice of Hearing. If the debtor does not timely comply, the case trustee may ~~upload a lodge, and if lodged shall serve, a proposed~~ dismissal order. ~~If the ease trustee objects to the fees requested by debtor's counsel, counsel shall provide to~~ Fourteen days after the ~~ease~~-trustee a statement reflecting what work was done ~~for proposed dismissal order is lodged,~~ the ~~debtor and the time spent on each task. The statement~~court may be ~~as time sheet summaries~~ dismiss the case without further notice or a hearing.

(c) Dismissal If No Plan Payments. If the debtor makes no plan payments by the deadline for the ~~ease~~-trustee's recommendation/evaluation set above, the ~~ease~~-trustee may ~~upload~~lodge an order dismissing the case rather than file a recommendation/~~objection~~evaluation, and the court may summarily dismiss the case.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

Rule 2084-11

Hearing on Objection or Confirmation Hearing ~~or Hearing on Objection~~

(a) Trustee Need Not Attend. Unless the court orders otherwise, a hearing on a creditor's objection is not a hearing requiring attendance of the ~~ease~~ trustee.

(b) Hearing on Objection. A creditor who timely files an objection to plan confirmation may request a hearing on the objection from the court prior to the expiration of the last date for filing an objection to plan confirmation. The failure of a creditor timely to request a hearing will constitute a waiver of the requirement that the court hold a confirmation hearing within 45 days after the date of the meeting of creditors. Nothing in this rule shall prevent a creditor from requesting a hearing on the objection after the expiration of the last date for filing an objection to plan confirmation.

(c) Confirmation Hearing. ~~Anytime after~~ After expiration of the time for a creditor to object, the debtor, ~~ease~~ trustee, or creditor may request the court set a confirmation hearing rather than a hearing on an objection. Any order or notice setting a confirmation hearing must clearly state whether the debtor, debtor's attorney, ~~ease~~ trustee, and any creditor with an unresolved objection must appear at the hearing.

Rule 2084-12

Confirmation of Plan or Granting of Motion for Moratorium without Hearing

~~The~~Subject to Local Rule 2084-13, the court may confirm a plan or grant a motion for a moratorium without a confirmation or other hearing if:

- (a) There are no timely objections filed by creditors and the ~~ease trustee recommends confirmation of proposed order bears the trustee's~~ approval; or
- (b) The ~~ease~~-trustee and all objecting creditors ~~agree to~~sign a stipulated order.

Rule 2084-13

Order Confirming Plan or Granting Motion for a Moratorium

(a) Definitions. As used in this Rule, “plan” includes an amended or a modified plan, and “motion for a moratorium” includes a request for a waiver of plan payments.

(b) Trustee Approval. Unless the court specifically ~~provides orders~~ otherwise ~~in a separate order~~, any order confirming a plan or granting a motion for a moratorium must ~~be~~ endorsed by the ~~case trustee’s approval~~ trustee.

(~~b~~) (c) Form of Order. The Order Confirming Plan must be in the form approved by the trustee.

(d) Review of Claims Docket. The ~~attorney for the~~ debtor must review the court’s ~~claims docket register~~ and ~~claims filed with the court~~ proofs of claim before submitting a proposed order to the ~~case~~ trustee. ~~To keep parties informed as~~

(e) Cover Letter. Any proposed order confirming a plan or granting a motion for a moratorium submitted to the ~~statu~~ trustee must be accompanied by a cover letter and supporting documents that respond in detail to each item in the trustee’s recommendation/evaluation. The cover letter must identify and explain the supporting documents and their relevance to the issues raised in the recommendation/evaluation.

(f) Notice of confirmation, when Submitting. Upon submitting a proposed order confirming a plan or granting a motion for moratorium to the ~~case~~ trustee, the ~~attorney for the debtor also shall file a~~ attorney for the debtor must create a docket entry notice of submitting and attach the proposed order ~~confirming plan~~.

(~~eg~~) Nonconforming Order. The trustee may reject any proposed order confirming a plan or granting a motion for moratorium that does not comply with this Rule.

(h) Trustee Rejection of Proposed Order. If the trustee rejects the proposed order confirming plan or granting a motion for moratorium, the trustee must create a docket entry notice and either link to ~~Upload~~ Upload the debtor’s docket entry required by paragraph (f) or attach the rejected proposed order. The trustee’s rejection of a proposed confirmation order, including for failure to comply with this Rule, does not extend or expand the deadline to comply with the trustee’s recommendation/evaluation, unless specifically extended by the trustee.

(i) Trustee to Lodge Order Confirming. The ~~case~~ trustee shall approve and ~~upload lodge~~, or ~~return to the debtor reject~~, any proposed stipulated order confirming a ~~chapter 13 plan or order granting a motion for a moratorium~~ within 30 days of receipt of the proposed order, unless cause is shown by the ~~case~~ trustee. Unless the court orders or the ~~case~~ trustee requests otherwise, the ~~case~~ trustee shall be the ~~one party~~ who ~~uploads lodges~~ a proposed order confirming a plan or granting a motion for a

moratorium. After the trustee lodges a proposed order, the trustee must create a docket entry notice and either link to the debtor's docket entry notice required by paragraph (f) or attach the proposed order.

(dj) Trustee Plan Payment. The ~~case~~ trustee shall commence disbursements pursuant to the confirmed plan within 60 days after entry of an order confirming the plan, unless cause is shown by the ~~case~~-trustee.

(e) Notice of Completion. ~~When the case trustee determines that the debtor has completed the plan, the case trustee will file a notice of the completed plan as soon as practicable.~~

Rule 2084-14

Confirmation Status Hearing

(a) Original or amended plan. This rule applies to an original or an amended plan as defined in Local Rule 2084-4.

(b) Confirmation status hearing. Unless the Court has already set a confirmation status hearing, then within 210 days after the petition date or, in a converted case, the conversion date, the Court will set a confirmation status hearing to be held within 60 days unless:

(1) The Court enters an order confirming a plan; or

(2) The debtor, if eligible, files a notice of conversion to Chapter 7, or the debtor or other party in interest files a motion to convert the case to another Chapter and within seven days notices a hearing on the motion.

(c) Earlier hearing. Before the Court sets a confirmation status hearing as provided in paragraph (b), the debtor or any party in interest may set a confirmation status hearing and notice out the hearing to the debtor, debtor's attorney, trustee and all parties in interest who filed an objection to the plan.

(d) Appearance at hearing. The debtor's attorney or, if pro se, the debtor, and all objecting parties in interest with an unresolved plan objection, must appear in person at the first confirmation status hearing, unless the Court orders otherwise.

(e) Status report. Within three days before any confirmation status hearing:

(1) The debtor must file a status report that is responsive to the trustee's recommendation/evaluation, state which objections and issues are resolved, which objections and issues remain, and what must be done to move the current plan toward confirmation; and

(2) Unless the trustee has filed a recommendation/evaluation, the Chapter 13 trustee must file a status report that contains the trustee's position on the case.

Rule 2084-15

Trustee Motion to Dismiss for Plan Payment Delinquency

(a) Trustee Motion. A motion to dismiss filed by the ~~ease~~ trustee because the debtor is delinquent in one or more plan payments may provide for dismissal of the case unless, within 30 days of the ~~ease~~-trustee filing the motion, the debtor does one of the following:

- (1) Pays the ~~ease~~-trustee the amount of the delinquent plan payments or getsobtains an informal agreement with the case trustee to catch up the payments;
- (2) If the debtor is otherwise eligible, files with the court, and serves a copy on the ~~ease~~-trustee, a notice of conversion to chapter 7 or, if the case was previously converted, a motion to convert to another chapter; or
- (3) Files and serves a motion for a moratorium of the delinquent plan payments.

(b) Dismissal. If the debtor fails to timely do one of the acts in paragraph (a), the ~~ease~~ trustee may ~~upload~~lodge an order dismissing the case and the court may summarily dismiss the case.

Rule 2084-16

Debtor's Objection to Proposed Dismissal Order

Other than Orders lodged after a hearing:

(a) If a debtor objects to dismissal of the case, the debtor must file an objection to dismissal within fourteen days of the lodging of a proposed dismissal order, and contemporaneously request a hearing from the court.

(b) If the debtor files an objection to a ~~proposed~~lodged dismissal order, the debtor must state what issues are resolved, what issues remain, and what has been done to move the plan toward confirmation.

(c) An objection to a proposed dismissal order which fails to include the requirements listed in section (b) of this Rule may constitute grounds for the court to summarily overrule the objection, and, after the fourteen day objection period has expired, enter the lodged dismissal order.

(d) A motion for additional time, filed after the trustee lodges a dismissal order, shall not be considered an objection to the lodged dismissal order.

Rule 2084-17

Reinstatement of Dismissed Case

If the court dismisses a case on motion of the ~~ease~~-trustee, the court may grant a motion to reinstate the case without a hearing if the ~~ease~~-trustee approves the proposed reinstatement order. If the ~~ease~~-trustee does not approve the order, the debtor may set the matter for hearing. The court may set a hearing on the motion to reinstate on request of an interested party who had joined the ~~ease~~-trustee's dismissal motion.

Rule 2084-18

Plan Payments

The ~~ease~~-trustee may require the debtor ~~to~~ make plan payments in a specific form, such as certified funds, and ~~to~~ the address to which the debtor must send the payments.

Rule 2084-19

Conduit Mortgage Payments.

(a) Application.

This Rule applies to cases where venue is in the Tucson Division and as otherwise ordered by the Court.

(b) Definitions. As used in this Rule:

(1) "Arrearage" is the total amount past due to a Real Property Creditor as of the petition date or, if applicable, as of the date of the filing of a Plan.

(2) "Conduit Payment" is the regular contractual post-petition payment owed by a Debtor to a Real Property Creditor when the Debtor is in default under the terms of the mortgage as of the petition date or becomes in default after the petition date.

(3) "Debtor" or "Debtors" are hereafter referred to as "Debtor."

(4) "Plan" refers to an original, amended or modified Chapter 13 Plan.

(5) "Real Property Creditor" is an entity holding a mortgage on real property, or a servicer of such a mortgage, that is the principal residence of the Debtor.

(6) "Serve" means by regular mail, email or fax.

(7) "Trustee" means the Chapter 13 Trustee.

(c) Conduit Payments on Residential Real Property.

Conduit Payments shall be made by the Debtor to the Trustee for payment through the Plan. A Debtor may be excused from making Conduit Payments only upon the entry of a Court order, upon a showing of circumstances justifying the same. If Debtor initially is not excused from compliance, but later the Arrearage is cured, Debtor may seek to be excused from paying the mortgage as a Conduit Payment by filing:

(1) A motion with the Court with notice to the Trustee and all creditors, and the Court granting the motion; and

(2) An amended or modified Plan to eliminate future Conduit Payments.

(d) Debtor's Duties:

Unless the Court has entered an Order allowing the Debtor to make direct payment to the Real Property Creditor:

(1) Debtor must complete the Mortgage Creditor Checklist, Local Form 2084-19A, and Authorization to Release Information, Local Form 2084-19B, and serve these Forms on the Trustee (not the Court) within seven days of the petition date.

(2) Debtor or Debtor's attorney shall serve on the Trustee, a copy of all correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any post-petition adjustment to the monthly mortgage payment or interest rate immediately upon receipt or creation of such document.

(3) Debtor shall include the regular post-petition payment amount owing to the Real Property Creditor, including the Trustee's 10% fee, in the regular plan payments paid to the Trustee.

(4) In the event the monthly Conduit Payment is changed due to either a change in escrow requirements or a change in an adjustable interest rate, Debtor shall decrease or increase the plan payment amount to the Trustee by the same amount, plus the Trustee's fee.

(e) Trustee's Duties:

(1) Pursuant to 28 U.S.C. § 586, the Trustee is authorized to deduct from any payments collected under the Plan the authorized percentage fee on the funds to be distributed as necessary costs and expenses. The Trustee's obligations under this Rule shall not render the Trustee a mortgage servicing agent nor subject the Trustee to any rules and regulations governing mortgage servicers.

(2) Trustee shall disburse Conduit Payments to a Real Property Creditor regardless of whether the Court has confirmed a Plan or the Real Property Creditor has filed a proof of claim. The Trustee is not required to distribute a partial payment to Real Property Creditor.

(3) Should the Trustee not have funds sufficient to pay all required monthly disbursements of conduit mortgage payment and any required adequate protection payments, the Trustee shall hold the funds and not make any such disbursements. The Trustee will internally allocate the funds on a pro rata basis to the creditors entitled to disbursements. Once the Trustee holds sufficient funds to pay a full conduit mortgage payment and all required monthly adequate protection payments the Trustee shall then make the disbursements.

(4) Trustee may rely on the Debtor's representation of the amount of the Conduit Payment to the Real Property Creditor pending notice from the Real Property Creditor of a different amount.

(5) Within 28 days after the Trustee has received any notice of a change in the monthly Conduit Payment, the Trustee shall file a notice of the terms of the change with the Court and provide notice of that change to Debtor, Debtor's attorney and Real Property Creditor. The filed notice shall be treated as an amendment to the Creditor's Real Property proof of claim and a modification to the Debtor's Plan under 11 U.S.C. §§ 1323 or 1329. A party in interest shall have an opportunity to object to notice within 21 days after the Trustee files it. After the filing of the notice, the Trustee shall be authorized to disburse the new monthly Conduit Payment. In the event of an objection to the notice, the objecting party shall promptly set the objection for hearing. Until such time as a Court order is entered sustaining the objection, the Trustee is authorized to disburse the new monthly Conduit Payment.

(6) Should the amount of the new Conduit Payment jeopardize the feasibility of the Plan, the Trustee may file a motion to modify the Plan or seek dismissal of the case, as the Trustee deems appropriate.

(7) The Trustee shall comply with F.R.B.P. 3002.1(f), Notice of Final Cure Payment.

(f) Real Property Creditor's Duties:

(1) Real Property Creditor is to file a Proof of Claim, Official Form B10, with attachments, by 90 days after the first date set for the meeting of creditors pursuant to 11 U.S.C. § 341(a).

(2) Real Property Creditor is to comply with F.R.B.P. 3002.1 and file Official Form B10S1 or Official Form B10S2, as applicable or amended, on the Court's Claims Register.

(3) At least 60 days prior to a change of the name of the Real Property Creditor, or the address to which payments are to be made, Real Property Creditor shall file a notice of the change on the Claims Register, and serve the Trustee, Debtor and Debtor's Attorney. If there is a transfer of the claim other than for security, the Transferee must file Official Form B210A on the Claims Register, pay any applicable Court fee, and serve the Official Form on the Trustee, Debtor and Debtor's Attorney.

(4) The Real Property Creditor shall serve on the Trustee copies of correspondence, notices, statements, payment coupons, escrow notices and default notices, concerning any change to the monthly payment or interest rate immediately upon receipt or creation of the same.

(5) Confirmation of a Plan imposes an affirmative duty and legal obligation on the Real Property Creditor to do all of the following:

(A) Apply the payments received from the Trustee for payment on the Arrearage pursuant to the Plan. The Arrearage shall be deemed cured and paid in full upon the entry of the Discharge Order, unless otherwise ordered by the Court.

(B) Treat the Debtor's account as contractually current upon confirmation of the Plan, thereby precluding the imposition, directly, or indirectly, of late payment charges or other default-related fees based solely on any prepetition default or the payments referred to above.

(C) Apply the Conduit Payments to the month in which they were designated to be made under the Plan. Even if such payments are placed into a suspense, forbearance or similar account, they will be deemed to have been applied to the promissory note pursuant to this subsection.

(D) Real Property Creditor may not impose a late charge on Conduit Payments paid or tendered to the Real Property Creditor during the contractual grace period even though an earlier installment, or any later charge thereon, may not have been paid when due. For purposes of determining whether a late charge may be imposed, Conduit Payment tendered by the Trustee shall be applied by the Real Property Creditor to the most recent post-petition contract installment payment to become due.

(6) The Real Property Creditor shall comply with F.R.B.P. 3002.1(g), Response to Notice of Final Cure Payment.

(g) Effect of Plan Completion.

If the Debtor pays the Arrearage, together with any interest as specified in the order confirming Plan, then all prepetition defaults under the note and other loan documents will be deemed cured, extinguishing any right of the Real Property Creditor to recover any amount alleged to have arisen prior to the filing of the petition or to declare a default of the note, mortgage, or other loan documents based upon prepetition events.

(h) Complying with Code and Other Rules.

Nothing in this Rule relieves any party from complying with any obligation under the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedures, and Local Rules of the District of Arizona and Bankruptcy Courts of Arizona, or any applicable Standing or General Orders. These procedures shall not be modified by any plan language without express order of the Court.

Rule 2084-21

Conversion to Chapter 7 by Debtor

(a) By Notice. The debtor is to file a notice of conversion using the applicable ECF event. The conversion date is the date the debtor files the notice; or

(b) By Motion. If the debtor files a motion instead of a notice of conversion, then the debtor must lodge an order granting the motion and create a notice of lodging on the docket. The conversion date is the date the Court docketed the order granting the motion.

References: 11 U.S.C. § 1307(a); F.R.B.P. 1017(f)(3).

Committee Note 2016: The preferred procedure for a debtor is to file a notice of conversion. The rule clarifies that when a debtor files a motion instead of a notice then, for purposes of § 348(c) and F.R.B.P. 1019, the conversion date is when the court enters an order granting the motion.

Rule 2084-23

Stay Relief to Secured Creditors

(a) When a stay relief order unconditionally permits a creditor to foreclose on or repossess its collateral, the ~~ease~~-trustee shall cease making payments on the creditor's secured claim if the ~~ease~~-trustee has received notice of the order more than five~~seven~~ days before a monthly plan distribution, unless the order granting stay relief provides otherwise. The ~~ease~~ trustee may continue distributions to other creditors.

(b) Should the secured creditor file a notice with the Court that the default has been cured or that the creditor is not presently executing on the order for stay relief, and said notice is provided to the trustee, the trustee may recommence disbursements to the secured creditor. If the secured creditor later executes on the order for stay relief, the secured creditor shall, within seven days, file a notice with the Court and serve said notice on the trustee to cease distribution.

Rule 2084-25

Sale of Property or Incurring New Debt

(a) Pre-confirmation ~~Sale or Incurring~~ Motion to Incur New Debt. If the court has not confirmed a plan, ~~a debtor must file a motion for approval to sell property or incur new debt.~~

~~(b) Post-Confirmation Sale or Incurring New Debt.~~

~~(1) Vehicle Loans.~~ ~~If and~~ the ~~case~~ trustee endorses the order, ~~the court~~ a debtor may approve file an ex parte motion ~~by the debtor to finance the purchase of a motor vehicle for approval to incur new debt, or refinance an existing home loan.~~ The debtor's motion ~~and the case trustee's approval are their~~ must contain the following certification ~~to the court~~ that:

~~(A)1~~ The debtor is current on plan payments;

~~(B)2~~ The debtor is not in default under the terms of the chapter 13 plan;

~~(C)3~~ Schedules I and J (whether original or amended) were filed within the prior 30 days, with income verification provided to the case trustee, and ~~thesuch~~ Schedules show that the debtor has the ability to pay all future plan payments and projected living and business expenses, as well as repay the new debt;

~~(D)4~~ The debt is for a reasonable amount; and

(5) Depending on the nature of the loan, that:

(A) Vehicle Loan:

(i) The new debt is a single loan to purchase a motor vehicle that is necessary for the maintenance or support of the debtor or a dependent of the debtor or, if the debtor is self employed or engaged in business, is necessary for the continuation, preservation, and operation of the debtor's business; and

(E)ii) The only security for the new debt will be the motor vehicle to be purchased by the debtor; and

~~(F) The new debt is a reasonable amount.~~

~~(2) New Home Loans.~~ ~~If the case trustee consents, the court may approve an ex parte motion by the debtor to finance the purchase, or enter into a new lease, of residential real property. The debtor's motion and the case trustee's approval are their certification to the court that:~~

~~(A) The debtor is current in plan payments;~~

~~(B) The debtor is not in default under the terms of the chapter 13 plan;~~

~~(C) Schedules I and J (whether original or amended) were filed within the prior 30 days, with income verification provided to the case trustee, and the Schedules show that the debtor has the ability to pay all future plan payments and projected living and business expenses, as well as repay the new debt;~~

~~(D)~~ (B) New Home Loan:

(i) The new debt is a single loan incurred to purchase a residence that is necessary for the maintenance or support of the debtor and debtor's family;

~~(E)~~ ii) The only security for the new debt will be the residence to be purchased by the debtor; and

~~(F)~~ iii) The monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the ~~greater of the~~ debtor's current ~~such~~ monthly ~~purchase~~ mortgage or rental payment, or a reasonable amount; or

~~(3) **Refinance of Existing Home Loans.** If the case trustee endorses the order, the court may approve an ex parte motion by the debtor to refinance existing debt encumbering the debtor's residence. The debtor's motion and the case trustee's approval are their certification to the court that:~~

~~(A) The debtor is current in plan payments;~~

~~(B) The debtor is not in default under the terms of the chapter 13 plan;~~

~~(C) Schedules I and J (whether original or amended) were filed within the prior 30 days, with income verification provided to the case trustee, and the Schedules show that the debtor has the ability to pay all future plan payments and projected living and business expenses, as well as repay the new debt;~~

~~(D)~~ (C) Refinancing an Existing Home Loan:

(i) The new debt is a single loan incurred only to refinance existing debt encumbering the debtor's residence;

~~(E)~~ ii) The only security for the new debt will be the debtor's existing residence;

~~(F)~~iii) All the creditors with liens and security interests encumbering the debtor's residence will be paid in full from the proceeds of the new debt and in a manner consistent with the chapter 13 plan; and

~~(G)~~iv) The monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the greater of the debtor's current such monthly payments on the existing debts being paid, or a reasonable amount. ~~The court will not approve ex parte motions to obtain secured credit pursuant to § 364(d).~~mortgage payment.

~~(4)~~(b) Pre-Confirmation Sale of Property. If the ~~case~~ trustee endorses the order, the court may approve an ex-parte motion by the debtor to sell real or personal property with a value of \$~~1,000~~2,500 or more other than in the ordinary course of business.

(1) Required Certification. The debtor's motion ~~and the case trustee's approval are their~~must contain the following certification ~~to~~by the ~~court that~~debtor:

- (A) The sale price represents a fair value for the subject property;
- (B) All creditors with liens and security ~~interest~~interests encumbering the subject property will be paid in full before or simultaneously with the transfer of title or possession to the buyer;
- (C) All costs of sale, such as escrow fees, title insurance, and broker's commissions, will be paid in full from the sale proceeds;
- (D) The sale price is all cash;
- (E) The debtor will not relinquish title to or possession of the subject property before payment in full of the purchase price; and
- (F) The sale is an arm's length transaction. "Trading in" a vehicle as part of the purchase price for a new vehicle complies with the requirements of ~~(d)~~(D) and ~~(e)~~(E) of this subparagraph.

~~(5)~~2) Sales Over Objection. The court will not approve ex-parte motions to sell property pursuant to Bankruptcy Code § 363(f).

(c) Post-Confirmation Sale or Incurring New Debt. In a confirmed case, in lieu of obtaining a court order, the debtor may request written authorization from the trustee by providing, in writing, all of the information required to be included in a Motion pursuant to subsections (a) & (b) of this Rule directly to the trustee.

(d) Incurring Other New Debt and Transfers of Debt. If the ~~ease~~ trustee does not give the consent allowed by paragraphs ~~(b)(1)-(4a) - (c)~~, or if the debtor wishes to incur new debt or transfer property on terms and conditions other than provided for in paragraphs ~~(b)(1)-(4);a) - (c)~~ the debtor may file a motion, serve it on the ~~ease~~ trustee and those creditors who are entitled to notice, set the hearing on the court's calendar with the notice required by Rule 2002 and Local Rule 9014-1, and file a certificate of service within seven days.

Committee Notes ~~2009: Time deadlines have~~2016: This Rule has been ~~amended/restructured to be consistent with amendments to clarify~~ the ~~Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

~~Committee Notes 2007: This proposed Rule is new information required applies in both pre-confirmation ex-parte motions by the debtor and not found in GO 95 post-confirmation requests for written authorization from the Trustee.~~

Rule 2084-26

Debtor Completion of Plan Requirements; Discharge

(a) After the debtor has completed the payments required under a plan and met all other plan requirements, the trustee will file a notice of completed plan. If the Court has entered an order denying entry of a discharge, the Court may close the case without entering a discharge.

(b) Before the Court enters the debtor's discharge under Bankruptcy Code § 1328(a), the debtor must ~~file a Certification that contains:~~

(1) If the ~~information~~debtor was required to pay a domestic support obligation, complete Local Form 2084-26A and submit it to the trustee; and

(2) File Local Form 2084-26B:

(A) If no party in interest files an objection to the Local Form 2084-26B within seven days, the Court may enter the discharge;

(B) The debtor must file Local Form 2084-26B no sooner than Plan completion and within 21 days after the trustee filed the notice of completed plan. Failure to do so may result in the Court closing the case without entering a discharge.

Rule 2084-27

Transmission of Documents with Personally Identifiable Information to Trustee

(a) Personally Identifiable Information as described in FRBP Rule 9037 shall be redacted in any document submitted to the trustee.

(b) In addition to regular mail, the trustee may require debtors and attorneys to use a specific method or portal, such as a website, for the transmission of documents that might contain personally identifiable information, such as tax returns and bank statements.

Rule 2084-28

Electronic Service on Chapter 13 Trustees

To constitute proper service via e-mail pursuant to LR 5005-4(c), the e-mail must be sent pursuant to the instructions for Electronic Service on the individual trustee's website. The addresses of the Chapter 13 Trustees' websites are listed at the Court's website.

Rule 2090-1

Attorneys—Admission to Practice; Appearance Before the Court

(a) Bankruptcy Appearance by Attorney Admitted to Practice Before the District Court Bar. Any.

(1) Attorney. An attorney admitted to practice before the United States District Court, District of Arizona, may practice before the bankruptcy court Bankruptcy Court. An attorney who is not admitted to the bar of, or permitted to practice before, the District Court may not appear before the court on behalf of a person or entity, except as provided by this Rule. An attorney appearing before the court must have read the Local Rules of Bankruptcy Procedure in their entirety.

(b) Participation of a Local Attorney. If an attorney is a member of the bar of this court but does not currently reside in Arizona, the court may require the association of resident local counsel. If the nonresident attorney fails to respond to any order of the court, for appearance or otherwise, the associated local counsel will have the responsibility and full authority to act for and on behalf of the client in all matters in connection with the case or proceeding, including hearings, pretrial conferences, and trial.

(c)-(2) Scope of Appearance. Regardless of the terms of any retention agreement, the attorney for the debtor is presumed to appear in the case and in all proceedings in the case, unless otherwise ordered by the court or as provided in these Local Rules.

(3) Entities. A non-individual entity must appear through counsel.

(b) Pro Hac Vice Practice. Appearance.

(1) Disqualification from Pro Hac Vice Appearance. Unless authorized by the Constitution of the United States or an Act of Congress, a nonresident attorney is ineligible for permission to appear pro hac vice if the applicant:

(A) Resides in Arizona;

(B) Is regularly employed in Arizona; or

(C) Is regularly engaged in business, professional or other similar activities in Arizona.

(2) Permission for Pro Hac Vice Appearance by Nonresident Attorney . An attorney who is not a member of the bar of the United States District Court, District of Arizona, but who is a member in good standing of the bar of another United States District Court and licensed to practice law in another jurisdiction

may, upon application and court order, be permitted to appear and participate in a particular case. ~~Unless authorized by the Constitution of the United States or an Act of Congress, an attorney is not eligible for limited admission pursuant to this rule if (i) the attorney resides in Arizona, (ii) the attorney is regularly employed in Arizona or (iii) the attorney is regularly engaged in the practice~~

~~(3) Designation of law in Arizona. Local Counsel. Unless otherwise ordered, the applicant shall~~ designate a nonresident attorney applying to appear pro hac vice must designate in the application an attorney who is a member of the court and who maintains an office within this district as local counsel currently residing in Arizona with whom the court and opposing counsel parties may readily communicate regarding the conduct of the case. and upon whom documents may be served. The court may require local counsel to appear at hearings.

~~(4) Contents of Pro Hac Vice Application. A nonresident attorney applying to appear pro hac vice must file an application shall also state, containing:~~

~~(A) Proof of payment of any fee required by the District Court.~~

~~(B) Stating under penalty of perjury, whether:~~

~~(1) The attorney's principal office address, telephone number, facsimile number, email address, and city and state of principal residence;~~

~~(2) In what courts the applicant attorney has filed with this been admitted to practice and the dates of admission;~~

~~(3) That the attorney is not currently suspended, disbarred or subject to disciplinary proceedings in any court; and~~

~~(4) Whether the attorney signing the application has concurrently or within three years preceding the application date made any other applications pro hac vice application in this District, and whether such application was granted.~~

~~(C) The signature of the designated local counsel.~~

~~(5) Effect of Granting Application. If the court grants a pro hac vice application the attorney is subject to the jurisdiction of the court to the same extent as a member of the bar of the District Court of Arizona.~~

(c) Attorneys for limited the United States or State of Arizona. An attorney who is ineligible for admission or pro hac vice applications within one year preceding the current application and if so, the title and case number of each case in under District Court L.R.Civ. 83.1 or paragraph (b)(1) above, who is employed within Arizona, who is a member of good standing of and eligible to practice before the bar of any United States

or the highest court of any state, territory or insular possession of the United States, and who is of good moral character, may be granted leave of court to practice in the court in any matter for which such application was filed, the date of each application and whether each application was granted or denied. The application shall also contain the address, e-mail address, telephone number and written consent of the designated local counsel, if any. person is employed or retained by the United States, State of Arizona or their agencies. When such person no longer is employed by the United States or State of Arizona, then this paragraph no longer applies and such person must comply with other provisions of this Rule.

~~**(d) Parties Appearing Without an Attorney.** Any party proceeding without an attorney will be expected to be familiar with and to proceed in accordance with the rules of practice and procedure of this court and with the appropriate federal rules and statutes that govern the action.~~

~~**(e) Change of Address.** An attorney who changes office address must submit a written change of address to the clerk. Completion and submission of this address change will update the attorney's address in the court's electronic database. In those cases where the attorney represents a party other than the debtor, this address change will not update the address on the mailing lists for those cases. In those cases, to update the address on the mailing list and to give notice of the address change to other attorneys and parties, the attorney must file a notice of change of address in each case. In cases where the attorney does represent the debtor, the address is updated in the database, and also updated on the mailing lists for those cases.~~

~~If the change of address is because the attorney has changed law firms, in each case in which the attorney has appeared and in which the former firm will continue to represent the debtor or other party, a notice must be filed stating that the attorney no longer represents the party and stating who in the firm now represents that party. For those cases in which the attorney, at the new firm, will continue to represent the debtor or other party, the attorney will remain the attorney of record at the new firm and address.~~

~~**(f) (d) Student Practice.** Notwithstanding ~~section paragraph~~ (a) above, a student ~~duly~~ enrolled in an American Bar Association ~~(ABA)~~ accredited law school may represent parties in bankruptcy cases or proceedings pending or contemplated to be filed in this court, and may appear in court on behalf of such parties, upon compliance with District Court LR Civ L.R. Civ. 83.4 "Student Practice Rule" of the ~~United States District Court for the District of Arizona~~, subject to the following modifications:~~

(1) The knowledge required by District Court LR Civ L.R. Civ. 83.4(b)(3) shall include knowledge of the Federal Rules of Bankruptcy Procedure, the Local Rules of Bankruptcy Procedure for the District of Arizona, and the General Orders of this court; and

(2) The consent form required by District Court LR Civ L.R. Civ. 83.4(f)(5) shall be filed with the Clerk ~~of the Bankruptcy Court~~, under the caption of the case in which the student intends to appear, or otherwise presented to the judge

presiding over such case, instead of the filing required by District Court
~~LR Civ~~L.R.Civ. 83.4(f)(5).

(e) Parties Without an Attorney. Only individuals may represent themselves, except for creditors filing proofs of claim and motions seeking to obtain funds deposited in the Registry of the Court. Individuals representing themselves are responsible for performing all duties imposed on counsel by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, the Local Rules, and applicable federal and state law, including the signing and filing with the Court any required Rights and Responsibilities Agreement. A self-represented individual may be sanctioned for failure to comply with bankruptcy law and rules of procedure.

Rule 2090-2

Bankruptcy Petition Preparers

(a) State Certification Required. Only bankruptcy petition preparers, as defined by Bankruptcy Code § 110, who are certified as legal document preparers pursuant to the Rules of the Supreme Court of the State of Arizona are permitted to prepare documents for filing in the United States Bankruptcy Court for the District of Arizona.

~~(b) Sanctions.~~ Any bankruptcy petition preparer who prepares a document for filing in the United State Bankruptcy Court for the District of Arizona and who is not a certified legal document preparer ~~as stated above~~ may be subject to the sanctions provided in Bankruptcy Code § 110 and/or as provided by law.

~~(e)(b) Prohibition on Preparing Chapter 13 Bankruptcy Documents.~~ Bankruptcy petition preparers are prohibited from preparing any documents in a Chapter 13 bankruptcy.

~~(c) Disciplinary Authority of Court.~~ A bankruptcy petition preparer who prepares documents for filing in this Court submits to the discipline of the Court. If a judge has cause to believe that a bankruptcy petition preparer has engaged in unprofessional conduct, the judge may do any of the following:

(1) Initiate proceedings for civil contempt;

(2) Order a reduction or refund of fees;

(3) Enjoin the bankruptcy petition preparer;

(4) Refer the matter to the Arizona State Supreme Court Board of Licensed Document Preparers, or the State Bar of Arizona, if appropriate; or

(5) Impose other sanctions deemed appropriate.

~~(d) Certification Number.~~ In addition to the requirements of Bankruptcy Code § 110, a bankruptcy petition preparer, certified as a legal document preparer under Arizona law, shall provide his or her certification number and a business phone number on any document prepared for filing.

~~(de) Other Prohibitions.~~ This Order shall not be construed as a modification of Bankruptcy Code § 110(f), which prohibits bankruptcy petition preparers from using the word "legal" or any similar term in any advertisement or advertising under any category which utilizes said term.

Comments: Delineate disciplinary actions that the court can take against BPP. Add

prohibition on Chapter 13 cases. Similar changes in rule designating disciplinary actions for attorneys.

Rule 2090-3

Attorneys - Conduct & Discipline

(a) Standards of Conduct. Without limiting the effect of an attorney's ethical responsibility under the Code, the Rules, and any case law, the "Rules of Professional Conduct," as set forth in Rule 42 of the Rules of the Supreme Court of the State of Arizona, shall apply to attorneys who file any pleading or document, or who are heard in any matter before the court.

(b) Responsibilities of Partners, Managers, and Supervisory Lawyers. Partners, managers and supervisory lawyers have the duty to ensure that the attorney of record is in full compliance with these Rules. Additionally, nothing in these Rules shall limit the duties and obligations of partners, managers and supervising attorneys pursuant to applicable Rules of Professional Conduct. If the partners, managers or supervisory lawyers fail to properly supervise the attorney of record then the court may enter an appropriate order under its disciplinary authority.

(c) Disciplinary Authority of Court.

(1) Initiate proceedings for civil contempt;

(2) Order a reduction or refund of fees;

(3) Reduce or remove the attorney's CM/ECF filing privilege;

(4) Refer the matter to any appropriate disciplinary authority or regulatory agency;

(5) Enjoin or suspend the attorney pursuant to the court's inherent authority and 11 U.S.C. § 105(a);

(6) Refer the matter pursuant to the procedures set forth in the rules of the District Court of Arizona, including L.R.Civ. 83.2;

(7) Make an appropriate referral pursuant to 18 U.S.C. § 3057(a); and

(8) Impose other appropriate sanctions.

Rule 3003-1

Filing Proof of Claim or Equity Security Interest in Chapter 9 and Chapter 11 Cases

Notice of Bar Date. Notice of the bar date for filing proofs of claim and interest in chapter 9 and/or 11 cases shall be given no later than the date of service of the order issued in connection with the first hearing on approval of a disclosure statement, and may be included in that order. Alternatively, an earlier bar date may be set by ex parte motion and shall not require a hearing. Service of the order setting a bar date must be made at least 21 days in advance of the bar date pursuant to Fed. R. Bankr. P. 2002(a)(7). If the bar date notice is included in the notice of hearing on the disclosure statement, the caption of such notice shall note that the notice sets a claims bar date.

Committee Notes 2016: Local Rule was added to address setting bar dates for filing claims and equity interests and service of notices of such dates in cases under chapters 9 and 11.

Rule 3007-1

Claims - Objections

(a) Notice of Bar Date to Respond to Objection. The party filing an objection to a proof of claim that is not asserted as part of an adversary proceeding shall give notice: (1) that the claimant has 14 days from service of the objection to file and serve a response to the objection; and, (2) that if a timely response is not filed and served, the objection may be sustained by the court without further notice or hearing.

(b) Order Sustaining Objection. If a timely response is not filed and served by the claimant, the objecting party shall file a certificate of service and of no objection to the claim objection and may lodge an order with the court sustaining the objection. The certificate of service and of no objection and the form of order may not be filed until three days after the last day for the objection.

(c) Hearing. If the claimant timely files and serves a response to the objection, the objecting party must obtain a hearing date, serve notice on the claimant and file a certificate of service.

(d) Additional Requirements in Chapter 7 and 13 Cases. In chapter 7 and 13 cases, the following additional rules apply:

(1) The objection must state a specific basis for disallowing the claim under Bankruptcy Code § 502;

(2) The caption of the objection, any notice served in regard to the objection, and any order entered in regard to the objection must state the name of the claimant and the claim number of the disputed claim as set forth in the official claims register maintained by the court; and,

(3) The objection may incorporate the certificate of service of the objection.

~~Comments/Intent of rule and revision: Rule 3007 provides that a notice of a claim objection must be served at least 30 days prior to the hearing. The Local Rule provides for negative notice.~~

Committee Notes 2016: Clarifies negative notice procedure and CNO deadlines.

Rule 4001-1

Automatic Stay - Relief From

(a) Form. A motion or stipulation for relief from the automatic stay shall be in the form as required by Local Rule 9004-1. The caption shall contain a brief description of the property, and the nature of the relief requested. The motion or stipulation and notice provided for in this Local Rule together shall constitute a request for relief from the automatic stay and such request shall be deemed to have been made after completion of service of the motion or stipulation and notice.

(b) Orders Confirming Termination or Absence of Stay. Any party seeking entry of an order confirming the termination or absence of a stay under any applicable provision of the Bankruptcy Code must file a motion or stipulation in accordance with this Rule and Local Bankruptcy Rule 9013-1.

(c) Residential Property Pre-Filing Certification. Unless the movant is seeking emergency relief under Bankruptcy Code § 362(f), a motion seeking relief as to the debtor's residence must be accompanied by a certification that: (i) ~~movant's~~movant's counsel sent a letter seeking to resolve the issues necessitating the motion to ~~debtor's~~debtor's counsel or the debtor, if the debtor is without counsel, and that after sincere effort the parties have been unable to resolve the matter, and (ii) the letter was sent at least seven days prior to the filing of the motion. In the absence of such certification the court may deny the inclusion of attorney's fees as part of the secured debt or as part of the allowed claim.

(ed) Service.

(1) Motions. A motion for relief from the automatic stay, a proposed form of order, and the notice required by subsection (d) shall be promptly served by movant upon:

(A) The debtor;

(B) The debtor's counsel;

(C) The case trustee, if any; and

(D) In a chapter 11 case, the twenty largest unsecured creditors listed by the debtor, or the unsecured creditors' committee and counsel for any committee appointed under the Code.

(2) Stipulations. A stipulation for relief from the automatic stay entered into by the parties before the filing of a motion, a proposed form of order, and the notice required by subsection (d) shall be promptly served by movant upon:

(A) The debtor;

(B) The debtor's counsel;

(C) The case trustee, if any; and

(D) In a chapter 11 case, the twenty largest unsecured creditors listed by the debtor, or the unsecured ~~creditors'~~creditors' committee and counsel for any committee appointed under the Code.

(3) Additional Notice. The notice required by subsection (d) of this rule shall be promptly served by movant upon:

(A) Any other party known to movant to claim an interest in the property that is the subject of the motion; and

(B) Any other person or entity required by law or the court.

(4) Stipulated Order. Upon proper notice, the movant may upload a Stipulated Order Modifying the Automatic Stay without the necessity of filing a motion for relief and without incurring a filing fee should the parties resolve the matter without court action.

(de) Notice of Motion or Stipulation. Contemporaneously with the motion or stipulation, movant will serve and file a form of notice providing the details of the motion or stipulation and that if no objection is served on movant and filed within 14 days of service, the motion or stipulation may be approved by the court.

(ef) Movant's Supporting Documents. Each motion shall be supported by legible copies of:

(1) All documents asserted to establish a valid, perfected security interest; and

(2) All documents that movant contends support an assertion of a lack of adequate protection or equity in property, including appraisals or summaries thereof, currently in ~~movant's~~movant's possession or control upon which it intends to rely at final hearing.

(fg) Entry of Order. If an objection to the motion or stipulation is not timely filed and served, the proposed form of order may be lodged and served with a certification of service and of no objection, ~~which certification may not be made until the expiration of three business days after the last day for objection.~~ If the court determines that the movant filed improperly or in bad faith a certification of no objection, the movant may be subject to sanctions.

(gh) Form of Order. The order lodged with the court shall not grant relief greater than that requested in the motion or stipulation. The caption also shall contain a brief description of the property.

(hi) Objection. An objection to the motion or stipulation for entry of an order for relief from stay shall be supported by specific facts. The objection shall be supported by legible copies of all documents that the objector contends supports an assertion of adequate protection or equity in property, including appraisals or summaries thereof, currently in the objector's possession or control, which the objector intends to rely on at a final hearing.

(ij) Procedure Upon Objection.

(1) If a timely objection is filed and served, the court shall issue an order establishing the procedures for adjudication of the motion, including the procedures for the movant to obtain and notice a date, time, and place for a preliminary hearing in the matter or setting a preliminary or final hearing.

(2) Relief may be granted or denied at the preliminary hearing based upon the affidavits, declarations, and other supporting documentation filed as part of the motion or objection if the opposing party's affidavits, declarations and supporting documentation fail to establish the existence of a material issue of fact that requires an evidentiary hearing.

(jk) Separate ~~Litigation File-Adversary Proceeding~~. Upon request or sua sponte, the court may order the clerk to establish a separate ~~contested matter litigation file~~adversary proceeding.

Committee Notes ~~2009: Time deadlines have been~~2016: A new subsection (b) was added to consolidate former Local Rule 4001-2 with this Rule.

The timing for entry of a lodged order under subsection (g) was amended to be consistent with amendments to remove the requirement that an additional three days pass before any order could be entered. The timing of lodging order must still comply with Federal Rules of Bankruptcy Procedure, effective December 9006 and Local Rule 9006-1, 2009.

Rule 4001-3

Cash Collateral–

(a) Agreement for Immediate Use of Cash Collateral

(a)–(1) Conspicuousness Requirement for Cash Collateral Agreement. In any motion seeking approval of an agreement for use of cash collateral pursuant to Code § 363, the first or second paragraph of the motion shall conspicuously state whether any of the kinds of relief identified in Local Rule 4001-4 are sought or granted and, if so, identify the pages of the motion and the attached exhibits that support such relief.

(2) Interim Order. Where the debtor and one or more parties with an interest in the cash collateral have agreed to the immediate use of cash collateral, the court, upon motion, may enter an interim order approving the agreement, with or without a hearing.

(b)–(3) Service Andand Form Ofof Notice. The debtor shall serve notice of the interim order and bar date for objections on parties to the agreement, parties in interest, the United States trustee, and entities entitled to notice under RuleFed. R. Bankr. P. 4001(d). The notice shall contain: (1) a detailed description of the terms of the agreement and the interim order, or in lieu of a detailed description, a copy of the agreement and interim order; (2) the date by which objections must be filed and served, which shall be 14 days from the date the notice is served, unless otherwise ordered by the court; and (3) the names and addresses of those persons upon whom objections must be served. The notice shall state that, if no objection is timely filed and served, the court may direct that the interim order shall continue in effect until a specified date or that the interim order shall become the operative order on the use of cash collateral until modified by the court.

(e)–(4) Certificate Ofof Service. The debtor shall file a certificate of service evidencing compliance with this Local Rule and RuleFed. R. Bankr. P. 4001(d).

(d)–(5) Procedure If No Objection. If no objection is timely filed and served, the court may direct that the interim order shall continue as noted in subsection (ba)(3).

(e)–(6) Procedure Upon Objection. If a timely objection is filed and served, the debtor shall obtain a hearing date, according to the process in subsection (c) and notice all parties entitled to notice under this Local Rule, and Fed. R. Bankr. P. 4001(d).

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

(7) Meet and Confer. Prior to the hearing related to an objection to the use of cash collateral, the parties are strongly encouraged to meet and confer at least 24 hours, and

preferably at least 72 hours, prior to the hearing and attempt to resolve any and all disputes regarding the use of cash collateral.

(b) Motion for Use of Cash Collateral

(1) Conspicuousness Requirement for Cash Collateral Motion. In any motion for use of cash collateral pursuant to Code § 363, the first or second paragraph of the motion shall conspicuously state whether any of the kinds of relief identified in Local Rule 4001-4 are sought and, if so, identify the pages of the motion and the attached exhibits that support such relief.

(2) Interim Order. Where the debtor seeks to use cash collateral, without the consent of a secured creditor with an interest in such collateral, the court, upon motion and after a hearing, may enter an interim order for use of cash collateral, as authorized by Fed. R. Bankr. P. 4001(b)(2).

(3) Service and Form of Notice. The debtor shall serve notice of any interim order, the bar date for objections, and the date of the final hearing on the motion for use of cash collateral on all parties in interest, the United States trustee, and entities entitled to notice under Fed. R. Bankr. P. 4001(b). The notice shall contain: (i) a detailed description of the terms of the proposed use and the interim order; (ii) the date by which objections must be filed and served, which shall be no less than 14 days from the date the notice is served, unless otherwise ordered by the court; (iii) the names and addresses of those persons upon whom objections must be served; and (iv) the date of the final hearing on the motion for use of cash collateral.

(4) Certificate of Service. The debtor shall file a certificate of service evidencing compliance with this Local Rule and Fed. R. Bankr. P. 4001(b).

(5) Meet and Confer. Prior to any hearing related to an objection to the use of cash collateral, the parties are strongly encouraged to meet and confer at least 24 hours, and preferably at least 72 hours, prior to the hearing and attempt to resolve any and all disputes regarding the use of cash collateral.

(c) Procedure to Obtain a Hearing. If a hearing is required regarding a motion or agreement for use of cash collateral, the party requesting a hearing should contact the courtroom deputy to request a hearing date and time. If an expedited hearing is required, the party requesting the expedited hearing should file a Motion for Accelerated Hearing in compliance with Local Rule 9013-1(h). After such motion is filed, the movant should contact the courtroom deputy, to obtain an expedited hearing date and time. Such party must provide the court with courtesy copies of all pleadings filed, all exhibits, and all proposed orders, in the format requested by the court, and as soon as practicable before the hearing.

(d) First Day Motion Regarding Cash Collateral. Notwithstanding the provisions of this Local Rule or Fed. R. Bankr. P. 4001(d), every motion for use of cash collateral for which an accelerated hearing or interim relief is sought within the first 30 days after

the filing of a chapter 11 petition, shall be considered a first day motion, and will be controlled by Local Rule 4001-4, rather than this Local Rule.

Committee Notes 2016: Local Rule was updated to add provision for Cash Collateral Motion, to clarify that that First Day Cash Collateral relief is controlled by Local Rule 4001-4, and create a “meet and confer” requirement.

Rule 4001-4

First Day Motions

(a) Advance Courtesy Copy to U.S. Trustee. Except as the ~~Court~~court may otherwise direct before or after the fact, and in addition to the service required by the Federal Rules of Bankruptcy Procedure, Local Rules and case law, for any motion for which an accelerated hearing or interim relief is sought within the first 30 days after the filing of a chapter 11 petition (e.g., a “first day motion”), the debtor or other movant shall provide the Office of the U.S. Trustee at least 24 hours’ advance notice of the nature of the case, the nature of the relief to hebe sought, and the proposed timing of the hearing, and shall provide the Office of the U.S. Trustee private courtesy copies of drafts of all such motions as soon as they are in substantially final form. Such advance notice and courtesy copies are required even if this means they must be provided before the petition is filed. The U.S. Trustee shall keep such advance notice and courtesy copies confidential until the case is filed.

(b) Conspicuousness Requirements for First Day, Cash Collateral and Financing Motions In any such motion, any motion for use of cash collateral pursuant to Code § 363, and any motion for postpetition financing pursuant to Code § 364, the first or second paragraph of the motion shall conspicuously state whether any of the ~~followings~~following kinds of relief is~~are~~ sought and, if so, identify the pages of the motion and the attached exhibits that support such relief:

(1) Granting a prepetition creditor a lien or security interest in postpetition assets in which the creditor would not otherwise have a security interest by virtue of its prepetition security agreement and applicable law, other than replacement liens in the same kind of collateral as the creditor had prepetition, in order to obtain the use of that creditor’s cash collateral (sometimes known as “cross-collateralization”);

(2) Findings, conclusions, holdings or orders as to the amount of a secured debt or the validity, perfection and scope of the security interests securing such debt, that purportedly affect the rights of the estate or anyone other than the debtor in possession and the secured creditor;

(3) Release, waiver or abandonment of claims, setoff rights, surcharge rights, avoidance actions and subordination actions against a secured creditor, or findings or stipulations that no such rights exist, that purportedly affect the rights of the estate or anyone other than the debtor in possession and the secured creditor;

(4) Granting of liens or security interests against rights and actions arising under Code §§ 544, 545, 547, 548 or 549;

(5) The use of funds derived from postpetition financing to pay all or part of a prepetition secured debt, or a provision that deems prepetition secured debt to be postpetition secured debt, other than as permitted by Code § 552(b);

(6) Granting surcharge or “carve-out” rights to a debtor’s professionals without providing equivalent treatment to professionals engaged by an authorized committee, or any restrictions on the surcharge or carve-out rights granted to such professionals other than the requirement for ~~Court~~court approval of the fees or expenses (e.g., a restriction against investigating or pursuing causes of action against the secured creditor);

(7) Payment of prepetition wages, salary or other compensation to an employee in an amount in excess of the Code’s priority amount, payment of any severance or vacation pay earned prepetition, or payment of any officer’s, director’s, insider’s or equity holder’s prepetition wages, salaries, commissions, benefits or consulting fees; and

(8) Priming any secured creditor under Code § 364(d) without that creditor’s consent.

(c) Procedure to Obtain Hearing on First Day Matters. If an expedited hearing is required with regard to First Day Motions, the moving party must file a Motion for Accelerated Hearing in compliance with Local Rule 9013-1(h). After such motion is filed, the movant should contact the courtroom deputy, to obtain an expedited hearing date and time. Such party must provide the court with courtesy copies of all pleadings filed, all exhibits, and all proposed orders, in the format requested by the court, and as soon as practicable before the hearing. If a hearing need not be conducted on an expedited basis, the party requesting a hearing should contact the courtroom deputy to request a hearing date and time.

(d) Notice of Hearing on First Day Matters. The moving party shall be responsible to give notice of any hearing set on an expedited basis in compliance with Local Rule 9013-1(h). Notwithstanding service methods otherwise defined in the Bankruptcy Rules or in these Local Rules, the movant is encouraged to make efforts to provide actual notice, and to provide hard or electronic copies of all expedited motions, to parties in interest in advance of the hearing date and time.

(e) Limited Scope of Interim Relief. Absent extraordinary circumstances, the ~~Court~~court will ~~ordinarily~~ not grant ~~such~~ a motion that includes any of the provisions listed in subsection (b) above on an interim or accelerated basis, and such provisions may be excluded even from “final” orders issued after 14 days’ notice, unless an official creditors’ committee has had sufficient time to be appointed, organize, engage professional(s), and analyze and investigate the requested relief with the advice of such professional(s).

(df) Reconsideration of Interim and First Day Orders. On any motion for reconsideration, filed within 30 days of receipt of notice of the entry of the order granting such a motion on shortened notice, the burden of proof with respect to the appropriateness of the relief shall remain on the debtor or other movant notwithstanding the entry of such order, except to the extent of a replacement lien granted for funds necessarily and irrevocably expended in reliance on such order.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

~~Committee Notes 2007: This new rule incorporates General Order 82 without change.~~

Committee Notes 2016: Local Rule updated to incorporate uniform procedures for First Day matters, and provide clarification regarding notice to United States Trustee's office, service of orders, and interim nature of first day orders.

Rule 4003-2

Lien Avoidance

(a) Form. A motion to avoid a lien which impairs an exemption under Bankruptcy Code § 522(f) shall be in the form as required by Local Rule 9004-1. A request for lien avoidance under Bankruptcy Code § 522(f) shall not be included in a plan. The motion must describe the property subject to the lien. In the case of real property and in counties where recorded information is available on the Internet, the motion must include the county recorder number of the document evidencing the lien.

~~(b)~~(b) Debtor's Residence. Debtor or Debtor's counsel may request an order avoiding a judicial lien on Debtor's principal residence

(c) Notice of motion. Contemporaneously with the filing of the motion, the movant shall file a form of notice, stating that any response objection to the motion and request for a hearing must be filed within 14 days of service of the motion and notice.

~~(e)~~(d) Service. The movant shall serve the motion and notice on all affected lienholders and parties, and file a certificate of service.

~~(d)~~(e) Entry of order. If an objection to the motion is not timely filed and served upon the movant, a proposed form of order granting the motion may be lodged with a certificate of service and of no objection. The certificate and proposed form of order may not be filed until three days after the last day for objection.

~~(e)~~(f) Procedure upon objection. If a timely objection is filed and served, the movant shall obtain a hearing date on the motion and objection and serve a notice of the hearing on the objecting party, and file a certificate of service.

Committee Notes 2016: Judicial liens on debtor's principal residence: the court is encouraged to enter an a order avoiding a judicial lien on debtor's principal residence in order to address the misapplication of ARS 33-964 by other courts, creditors and/or title companies.

Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Rule 5005-2

Electronic Court Filing System

(a) Mandatory Electronic Filing.

~~(1) **Attorneys and Trustees.** Except as specified in subparagraph (c) below, an attorney or trustee must file electronically all pleadings, petitions and other documents on the bankruptcy court's Electronic Case Filing ("ECF") system.~~

~~(2) **Other Filers.** The following (1) Except as provided in subsection (2) of this rule, all documents submitted in any case or proceeding must be filed electronically, signed or verified by electronic means in compliance with the court's ECF Guidelines available from the Clerk on the court's website. Proofs of claim may be filed electronically through ECF or submitted online on the court website.~~

~~(2) Only the following shall be excepted from the mandatory electronic filing requirement:~~

~~(A) **Pro Se Exception.** An individual who is not represented by an attorney may file and serve documents non-electronically.~~

~~(B) **Bankruptcy Court Order Exception.** Any documents required to be filed electronically by the filer on paper pursuant to a bankruptcy court order in a particular case or proceedings may be filed non-electronically.~~

~~(A) all proofs of claim and assignments/transfers of claim relating to secured or priority claims;~~

~~(B) all proofs of claim, assignments/transfers of claim, and requests for notice ("Claim Documents") filed by creditors and other filers after 30 days of receipt of notice from the clerk that they have filed 10 or more Claim Documents in any one-year period;~~

~~(C) all affidavits or certificates of service, by either the process server who made the service or the attorney or trustee who contracted for the service;~~

~~(D) all applications for compensation and expenses of an examiner, or a professional employed by a trustee or debtor in possession.; and~~

~~(E) all applications for payment of unclaimed funds ("Unclaimed Funds Applications") filed by any claimants or agents for claimants after 30 days of receipt of notice from the clerk that they have filed 5 or more Unclaimed Funds Applications in any one-year period.~~

~~(3) **Bankruptcy Petition Preparers.** The following requirements apply to cases in which a bankruptcy petition preparer has prepared the documents for filing.~~

~~(A) The following documents prepared by a bankruptcy petition preparer shall **Emergency Exception**. A document may be filed non-electronically by the preparer and paper copies containing the original signatures of the debtor and bankruptcy petition preparer shall be submitted to the clerk of court for retention:~~

~~Mailing List of Creditors;
Schedules and Statement of Financial Affairs;
Debtor Statement of Intention;
Individual Debtor Statement of Current Monthly Income;
Bankruptcy Petition Preparer Notice to Debtor;
Disclosure of Compensation of Bankruptcy Petition Preparer; and Exhibits to these documents.~~

~~(B) The debtor shall file with the clerk on paper, with the original signature of the debtor, the following documents:~~

~~Bankruptcy petition;
Statement of social security number;
Credit counseling certificate
Declaration of evidence of employers' payments; and
Copies of any payment advices.~~

~~(C) A document preparer who provides his/her full Social Security Number on their ECF Password Registration and who thereafter makes the above required in an emergency when electronic filings may, in lieu of placing his/her Social Security Number on documents they prepare, instead place his/her Arizona Supreme Court Certified Legal Document Preparer number on the documents and on the Disclosure of Compensation of Bankruptcy Preparer.~~

~~Any pleading, petition, or other document presented for filing on paper in contravention of the requirements of this paragraph (a) filing is subject to rejection as provided in paragraph (d) below not possible.~~

(b) Documents Under Seal. Unless submitted by a pro se party or ordered by the court, a motion to file documents under seal must be filed electronically in accordance with paragraph (a) above. The court will file electronically any order authorizing the filing of documents under seal. A paper copy of such order must be attached to all documents subsequently delivered under seal to the clerk.

(c) Exceptions from Mandatory Electronic Filing. Pro se parties may file pleadings and other documents on paper. In addition, the following documents are excluded from the electronic filing requirement and must be filed on paper:

- (1) trial and evidentiary hearing exhibits;
- (2) documents required to be filed under seal; and

(3) other documents required to be filed on paper pursuant to a bankruptcy court order in a particular case or proceeding.

(d) Rejection of Paper Filings. Any pleading, petition, or other document presented for filing in contravention of the requirements of paragraph (a) above is subject to rejection. Upon presentation, any such paper filing will be deemed lodged, but not filed. The judge assigned to the case or, if not available, another judge, will determine whether such paper filing is to be rejected or accepted for filing. A paper document accepted for filing will be deemed filed on the date that it was lodged and will be so entered on the docket. A paper document rejected for filing will be returned to the person or entity who lodged it, with such action noted on the document.

(e) ECF Guidelines. All attorneys and other filers utilizing the ECF system shall comply with Administrative Procedure Guidelines for Electronically Filed Cases, as approved by the court (the “ECF Guidelines”). A copy of the ECF Guidelines will be available on the court’s public website.

(f) ~~Document~~ Signatures on Documents filed by Electronic Means.

(1) Signature ~~—The electronic filing of a pleading, petition, or other document by an attorney or other filer who is a~~ **the Registered User Filing the Document.** ~~A registered participant in the ECF system constitutes the signature user has been issued a username and password. Use of the attorney or other filer for purposes user name and password of federal law. The filing attorney or other filer must retain an individual who is registered to use the court’s electronic filing system serves as that individual’s signature on any electronically filed document. The signature shall be represented as /s/Name, Bar Number, if applicable, on the document filed. The signature may be used with the same force and effect as a written signature under these rules and for any other purpose for which a signature is required in proceedings before the court. Nothing in this Rule shall prevent a registered user from filing a document using an original signature document in accordance with the ECF Guidelines or digital signature.~~

(2) Signature of a Registered User Who Is Not Filing the Document. ~~A registered user may electronically sign for another registered user with permission of that user. The filer of the document must retain the written confirmation of permission to file the document, permission can be in the form of an e-mail. The user who is filing the document must retain the written confirmation either in hard copy or digital form during the pendency of the case. The signature may be used with the same force and effect as a written signature under these rules and for any other purpose for which a signature is required in proceedings before the court and shall be represented as /s/Name with permission on the document filed. Nothing in this rule shall prevent a registered user from filing an original signature or using a digital signature.~~

(3) Signature of Other Individuals.

(A) Signature. When the document filed electronically contains the signature of an individual who is not a registered user of the court's electronic filing system, a registered user may either file a scanned copy of the signed document or a /s/ of the signature.

(B) How Shown on Docket. The document filed with the court must be either a scanned copy of the signature page of the document bearing the individual's signature, or a document identical to the one signed by the non-user with the non-user's signature represented as /s/Name.

(C) Effect. A signature submitted in compliance with this provision may be used with the same force and effect as the signature on the original documents for the purpose of applying these rules and for any other purpose for which signature is required in proceedings before the court.

(D) Retention of Signed Original Documents. If the non-user's signature was filed with a /s/ and the document was signed under penalty of perjury then the user must retain the document for a period of 5 years from the date a Discharge has been granted in a case, or 5 years from the date a Confirmation Order has been entered in a Chapter 11, Chapter 12, or Chapter 13 case or the case is dismissed. The user filing the document bearing the non-user's signature must retain the original signed document through the pendency of the case. Once the case is closed if a facsimile of the non-user's signature has been filed with the court, the user filing the document has no obligation to keep the original signed document. If the non-user's signature was filed with a /s/ and the document was not signed under penalty of perjury then the user must retain the written confirmation of permission to file the document during the pendency of the case, permission can be in the form of an e-mail.

(g) Case Filing Declaration. An original declaration containing a verification of the petition, lists, schedules, statement of affairs and debtor's social security number must be filed with the clerk as a separate document pursuant to the ECF Guidelines. Failure to file the signed original declaration within the time periods stated in the ECF Guidelines may result in dismissal of the case without further notice.

(h) Password Use. A password issued for electronic filing may be used by only the attorney or other filer to whom the password is assigned and authorized agents or employees of such attorney or other filer. Passwords will be issued to only specified individuals and not to entities, such as law firms. Pursuant to the ECF Guidelines, the clerk may issue limited use passwords to parties who are not attorneys for the purpose of filing applications for compensation by professionals, operating and other reports, reaffirmation agreements, affidavits of service or process, allowed filings by bankruptcy petition preparers, proofs of claim, assignments/transfers of claims, and requests for notice.

(i) Docket Entry. The electronic filing of a pleading, petition, or other document in accordance with the ECF Guidelines and this rule constitutes entry of such pleading, petition, or other document on the docket.

(j) Electronic Entry of Orders and Judgments and Issuance of

Summons. The clerk or judge shall enter all orders, decrees, and judgments in the ECF system. Such entry will constitute entry of such orders, decrees, or judgment on the docket for all purposes. Any order or other court-issued document filed electronically without the original signature of a judge or clerk has the same force and effect as if the judge or clerk had signed a paper copy of such order or other court-issued document and it had been entered on the docket nonelectronically. Orders also may be issued as “text-only” entries on the docket, without an attached document. Such orders are official and binding. The court may sign, seal, and issue a summons electronically, although a summons may not be served electronically.

(k) Electronic Service. Pursuant to the ECF Guidelines, and except as provided in paragraph (l) below: (1) the clerk may serve any notice required by Rule 9022 by electronic means on any party who has consented to such service; and (2) anyone electronically filing a pleading, petition, or other document, when required to serve a copy on an attorney or party in accordance with applicable law or court order, may serve such pleading, petition, or other document by electronic means on an attorney or party who is a registered Electronic Case Filing participant or who otherwise has consented in writing to service by electronic means. Such electronic service constitutes service of the pleading, petition, or other document.

(l) Required Service of Paper Copies. Notwithstanding paragraph (k) above, and unless otherwise ordered, anyone electronically filing a pleading, petition, or other document, when required to serve a copy on an attorney or party in accordance with applicable law or court order, shall serve paper copies of the pleading, petition, or other document on:

- (1) the debtor, when service on both debtor and debtor’s attorney is required;
- (2) all creditors, when applicable law or court order requires service on all creditors; and
- (3) all parties entitled to service who are not registered ECF participants or who have not otherwise consented in writing to service by electronic means.

(m) Address Information. An attorney or other filer shall include his or her physical address, telephone and fax numbers, and Internet e-mail address on any pleading, petition, or other document, except for the list of creditors and official bankruptcy forms for lists, schedules and statements and declarations contained therein. Any attorney or other filer utilizing the ECF system must notify the bankruptcy court of any changes in physical address, telephone or fax numbers, or Internet e-mail address.

(n) Untimely or Otherwise Improper Filings. An attorney or other filer whose filing is untimely or otherwise improper may seek appropriate relief from the bankruptcy court upon a showing of good cause or excusable neglect.

(o) Privacy Interests. Any person may apply by motion for an order limiting or prohibiting electronic access to specifically identified materials on the grounds that such materials are subject to privacy interests under applicable law that electronic access would likely prejudice. Information posted on the ECF system may not be downloaded for uses inconsistent with applicable law regarding the privacy concerns of any person.

(p) Documents Filed on Paper. ~~Paper documents scanned into the bankruptcy court's Case Management/Electronic Case File (EM/ECF) system are not to be destroyed, but are to be retained by the clerk for an appropriate period of time to be determined by the clerk and then shall be sent to the Federal Records Center for storage and disposition by the Federal Records Center five years from the date the records were sent. Any document submitted to the Clerk in a paper format shall be converted into an electronic format prior to docketing. It is the duty of the filing party to confirm that such document has been accurately submitted into the court's electronic file. If no challenge regarding the presentation of the document in the court's electronic file is communicated to the Clerk within fourteen days of the date of docketing, then the document as presented is conclusively confirmed as the document submitted, unless otherwise ordered by the court. Upon conversion of a paper document to an electronic format, the Clerk may dispose of such paper documents at its discretion.~~

~~Committee Notes 2008: Incorporates changes to subsection (p) from General Order 101.~~

~~Committee Notes 2007: New rule. Proposed Local Rule 5005-2 incorporates provisions from General Order Nos. 69, 87 and 97 and Interim Operating Order No. 8.~~

Committee Notes 2016: Rule changed to require mandatory electronic filing in all cases except pro se. Change makes electronic filing the default instead of the current rule which lists all those who need to file electronically. Provides that attorney must provide his/her email address on pleadings (not just a general email for receipt of ECF filings). The change in the rule eliminates the requirement that the clerk keep paper records and after 14 day waiting period allows clerk discretion on disposal of paper documents.

Rule 5005-3

ECF Filings by Bankruptcy Petition Preparers

(a) The following requirements apply to cases in which a bankruptcy petition preparer has prepared the documents for filing.

(1) The debtor may file on paper with the Clerk all documents prepared by a bankruptcy petition preparer. At a minimum, a debtor shall file with the clerk on paper, with the original signature of the debtor, the following documents:

Petition;

Statement of social security number;

Statement of Compliance with Credit Counseling Requirement (Exhibit D);

Declaration of evidence of employers' payments;

Copies of any payment advices; and Declaration of Debtor Without an Attorney.

(2) If the debtor does not file all required documents with the petition, the Clerk shall send a notice to the debtor and bankruptcy petition preparer of the documents still required. The debtor has the responsibility to make sure the documents are filed within the required period. The bankruptcy petition preparer may electronically file any prepared documents the debtor has not yet filed including:

Mailing List of Creditors;

Schedules and Statement of Financial Affairs;

Debtor Statement of Intention;

Individual Debtor Statement of Current Monthly Income;

Bankruptcy Petition Preparer Notice to Debtor;

Disclosure of Compensation of Bankruptcy Petition Preparer; and Exhibits to these documents.

(3) A document preparer who provides his/her full Social Security Number on the ECF Password Registration and who thereafter makes the above required electronic filings may, in lieu of placing his/her Social Security Number on documents they prepare, instead place his/her Arizona Supreme Court Certified Legal Document Preparer number on the documents and on the Disclosure of Compensation of Bankruptcy Preparer.

Any pleading, petition, or other document presented for filing on paper in contravention of the requirements of these local rules is subject to rejection.

Comments: Formerly addressed as Rule 5005-2(a)(3) which has been deleted. Change in rule allows debtors to file all documents, while still allowing BPP to upload documents if debtor does not file them. This change eliminates the current

administrative burden of the clerk's office holding documents filed by debtor to wait for upload from BPP.

Rule 5005-4

Electronic Service

(a) Notice of Electronic Filing. The automatically generated Notice of Filing does not constitute proper service, except as stated in (b) below.

(b) Notice of Filing Sufficient For Notice by the Clerk Pursuant to Rule 9022. The automatically generated Notice of Filing does constitute proper service by the clerk of any notice required by Rule 9022 on all registered Electronic Case Filing Participants.

(c) Service by E-Mail. A party filing a document or pleading electronically may serve the document or pleading as filed via E-Mail on any party who is a registered Electronic Case Filing Participant in lieu of service by U.S. Mail. To constitute proper service under this Rule, the E-Mail must be sent to the party's direct email address and, in the event of service on a Chapter 13 Trustee, must comply with LR2084- . The E-mail must include the document as filed as a pdf attachment.

(d) Via U.S. Mail. Nothing in this rule shall prevent the service of a paper copy via US Mail pursuant to applicable LRBP and FRBP.

(e) Required Service of Paper Copies. Notwithstanding paragraph (c) above, and unless otherwise ordered, a party filing a document or pleading electronically shall serve a paper copy of the pleading, petition, or other document on:

- (1) The debtor, when service on the debtor is required;
- (2) All creditors, when applicable law or court order requires service on all creditors;
- (3) All parties entitled to service who are not registered ECF participants or who have not otherwise consented in writing to service by electronic means;
- (4) The Clerk's Office when the filer is instructed to submit a copy to the Court during the electronic filing process; and
- (5) On the judge assigned to the case if required pursuant to the Judge's Procedures.

(f) 3-day Rule. Nothing in this Local Rule eliminates the requirement to wait an additional three (3) days upon conclusion of a noticing period prior to lodging a proposed order.

Committee Note 2016: New Rule 5005-4 replaces 5005-2(k). The rule recognizes the 'three days for mailing' requirement of FRBP 9006(f) and makes it applicable for all filings, even when service is done electronically as permitted by the rules. Specifically, this rule is intended to ensure that orders are not lodged on the date the time period

expires, as the clerk may have received a paper filing after hours on the date of the deadline that is not reflected on the docket until the following day.

Rule 5005-5

Documents Under Seal

(a) Order Required. No document may be filed under seal except pursuant to an order by the court, as set forth in subpart (b) of this Rule. For purposes of this Rule, the term “document” means any exhibit, record, transcript, filing, or other item to be filed or submitted under seal to the court.

(b) Procedure to Obtain an Order. The court may order the sealing of any document pursuant to a motion, stipulation, or on the court’s own motion.

(1) Separate Motion. The moving party shall file a separate motion to file the document or documents under seal and the motion must be served in accordance with Local Rule 5005-2 on all interested parties, or clearly state why an ex parte motion is necessary and proper. The motion to seal should set forth a clear statement of the facts and the legal authority justifying the request for the future filing of the identified document or documents under seal; or the motion should clearly identify the documents already in the court’s record that the moving party contends should be sealed, and the basis for such action.

(2) Do Not Attach Document to be Sealed to the Motion. If the document or documents are not already a part of the court record when the motion is filed, the document or documents which the moving party wishes to file under seal should not be appended to the motion or the stipulation, and must be filed separately with the court in accordance with subpart (c) of this Rule. If the document or documents are a part of the court record when the motion is filed, the motion should clearly identify the documents and state where they can be found in the record.

(3) Request to Chambers. If it is not possible for the moving party to sufficiently describe the basis to grant the motion without revealing the details of the material to be sealed, the motion may, in exceptional circumstances, be submitted directly to chambers, after receiving permission and instruction on the method of transmission from the judicial staff.

(4) Proposed Order. The moving party shall upload a proposed form of order granting the relief requested within the motion. The court will file electronically any order authorizing the filing of documents under seal if the motion is granted.

(c) Lodging of Documents to be Filed Under Seal.

(1) Lodging in Electronic Form. Generally, a document to be filed under seal must be lodged with the court in electronic form in the administrative case, or the designated adversary proceeding. The moving party, after the court enters the order allowing for document to be filed under seal, shall upload the sealed

document into the sealed documents section of the Electronic Case Filing system, following the relevant instructions in the ECF program, or the Electronic Case Filing Procedural Manual, for sealed documents. The filer should refer the sealed document to the docket entry that represents the order granting the motion to file the document under seal and not the motion or notice. If the court does require a party to submit to chambers a hard or paper copy of a document that is otherwise filed on the electronic system, the document shall be submitted to the appropriate chambers in a sealed envelope with a copy of the court's order granting the motion to seal the document attached to the outside of the envelope.

(2) Exceptions.

(A) Lodging in Paper Form. A document to be submitted under seal by a party or counsel who is exempt from the requirement to file documents electronically must be lodged in hard or paper form in a sealed 9" x 12" envelope (or an appropriate sized envelope or container) with a copy of the court's order granting the motion to seal the document attached to the outside of the envelope. Upon docketing the hard or paper copy of a sealed document, the clerk shall make a notation of the filing on the public docket and reference the order granting the motion to file documents under seal.

(B) Items that Cannot be Filed Electronically. Oversized charts, exhibits, demonstrative evidence, recordings, physical items, and the like that are not readily imported onto the Electronic Case Filing program can be submitted in physical form in a sealed 9" x 12" envelope (or an appropriate sized envelope or container) with a copy of the court's order granting the motion to seal the document attached to the outside of the envelope. Upon docketing the sealed item, the clerk shall make a notation of the filing on the public docket and reference the order granting the motion to file documents under seal.

(C) Miscellaneous Proceeding. It is noted that in addition to filing their motion in either the administrative case or an adversary proceeding, a party may open a separate miscellaneous proceeding for purposes of filing documents under seal. The moving party would then file their motion or stipulation to file under seal in the miscellaneous proceeding and follow the process and procedures outlined above to obtain an order from the court in order to file sealed documents in the miscellaneous proceeding.

(d) Disposal of Documents Filed Under Seal. In the event the court orders hard copies of a document to be filed under seal, or for any remaining original sealed documents presently kept by the clerk, then those hard copies shall be disposed of as follows:

(1) Returned to the party which filed the document, if such party obtains an order for its return before the case is closed.

(2) If not returned pursuant to a court order, the clerk shall destroy the sealed documents upon the closing of the case.

(3) For non-official copies of the documents submitted to the court, each chambers shall determine on a case-by-case basis whether it will dispose of these courtesy copies by submitting them to the clerk to be disposed of in the manner for the original filed documents, or if a different procedure shall be used for the courtesy copies.

(e) Denial of Request to File a Document Under Seal. If the request is denied in full, the submitting party may resubmit the document for filing on the public record. If the request is denied in part and granted in part, the party may resubmit the document in a manner that conforms to the court's order, and this Rule.

(f) Effect of Sealing. If the court orders the sealing of any document, the clerk shall file the order to seal and secure the sealed documents from public access. This includes receiving uploaded electronic documents to the sealed area in the Electronic Case Filing system, accepting and maintaining hard copies of sealed documents, and securing any document already part of the record that is later ordered to be sealed.

Committee Notes 2016: Changes made to filing documents under seal – changes reflect changeover of clerk's office policy of storing hard copy of sealed documents in the court's vault to uploading sealed documents on the Electronic Case Filing system, and procedure for disposition of any hard copies of sealed documents. Changes elaborate the process and procedure for sealing documents. The party may also chose to open a separate miscellaneous proceeding in order to file documents under seal – this may be done, for example, when a party believes that extensive documents will need to be sealed; by filing a separate miscellaneous proceeding, that entire proceeding may be sealed by the court if the circumstances so warrant.

Rule 5095-2

Deposit of Unclaimed Funds

(a) Court Order Required. When unclaimed funds are sought to be deposited with the clerk of court, the party seeking to place the unclaimed funds with the clerk shall make application to the court for an order to deposit the funds into the unclaimed funds account. No money shall be sent to the court or its officers for deposit with the court without a court order signed by the presiding judge in the case or proceeding designating the amount of funds to be deposited and identifying the intended recipient.

(b) Removal of Unclaimed Funds on Deposit with the Clerk. Once unclaimed funds are placed with the clerk of court, those funds shall remain in the court's unclaimed funds account until withdrawn by the recipient, a bona fide successor-in-interest, or the funds are removed based on a subsequent order of the court. With the exception of an order to correct a mistake or scrivener's error, the clerk will not directly surcharge or reapportion any funds from any particular case. In the event a party-in-interest determines that the funds need to be surcharged or reapportioned, the proper procedure is to file a motion with the court to remove all of the funds of a particular case from the court's unclaimed funds account for further administration by the trustee.

Committee Notes 2016: Local Rule 5095-2 was added to clarify the procedure for removing unclaimed funds placed with the clerk of court. Once the funds are placed with the clerk, the only way to pay someone other than the party named on the order (or that party's successor in interest) or to otherwise use the funds for the administration of the estate, is to remove all of the unclaimed funds for a particular case and for the funds to be transferred to the trustee of that case for further administration.

Rule 6003-1

Interim and Final Relief Immediately Following the Commencement of the Case

Unless otherwise ordered by the court, an order entered within 21 days after commencement of the case pursuant to Fed. R. Bankr. P. 6003 (a), (b), or (c), shall remain an interim order until the passage of 21 days from the date of the order for relief.

Committee Notes 2016: The 2015 amendments to Local Rule 6003-1 are intended to accommodate the changes made by Congress to FRBP 6003 in 2011 which clarify the timing of the entry of certain orders, but does not prevent the court from providing an effective date for such an order that may relate back to the time of the filing of the application or motion, or to some other date.

Rule 6004-1

Sales Not in the Ordinary Course of Business

(a) Notice. The notice of a sale not in the ordinary course of business of property in excess of \$2,500.00 shall as applicable, at a minimum, set forth:

- (1) The time and place of sale;
- (2) The name or representative's name of the prospective buyer and whether the prospective buyer is an insider;
- (3) A description of the property or interest to be sold in reasonable detail;
- (4) All entities known or believed to hold interests, in the property to be sold;
- (5) Whether the sale is free and clear of liens, claims or interests, or subject to them, and a description of any such liens, claims or interests;
- (6) The terms and conditions of the offer;
- (7) Whether the property may be viewed, and if so, when and where;
- (8) Whether the offer is subject to higher and better bids;
- (9) The date by which the objections must be filed and served;
- (10) Whether any compensation will be paid from the sale proceeds, if so, to whom and whether such recipient is an insider;
- (11) Whether there is an appraisal of the property, and if so, the value of the property stated therein; and
- (12) Whether any motions for stay relief have been filed as to this property and by whom.

(b) Service. The notice shall be filed and served, with the application, on those specified in Rule 6004, and on other entities known or believed to be interested, including potential buyers and/or their brokers, the title company where escrow has been opened, and any parties asserting liens, claims or interests in the property and their counsel. A certificate of service shall be filed by applicant prior to the hearing.

Related Bankruptcy Code Sections: 102, 363

Related Bankruptcy Rules: 6004, 2002(a)(2), (c)(1), (i) and (k) -- and 9014.

(c) Sale Report. Movant shall file a notice of consummation and sale report within 21 days of the sale's closing.

Committee Notes 2016: 6004-1c requires notice of consummation of sale within 21 days.

Committee Notes 2007: Changes to Rule 6004-1 were made to conform more closely with the Bankruptcy Code and Rules. For instance, the list of items required in the notice in subsection (a) are required only for sales in excess of \$2,500.00. In addition, the notice (in subsection b) was updated to conform with the new electronic filing system. The subsection (c) requiring a certificate of service is also new and is meant to assist the court in evaluating and determining adequacy of notice.

Rule 6007-1

Abandonment of Property

(a) Definitions. For purpose of this Local Rule, the term “trustee” does not include a “debtor in possession”.

(b) Procedure.

(1) **Notice of Intent to Abandon.** A ~~case~~ trustee or debtor in possession who desires to abandon property of the estate may seek to do so by a notice of intent to abandon, without necessity for filing a motion to abandon.

(2) **Motion to Compel Abandonment.** A party in interest who seeks to compel the ~~case~~ trustee or debtor in possession to abandon property of the estate shall do so by motion.

(c) Notice.

(1) **By Trustee.** A trustee’s notice of intent to abandon shall be served by the clerk.

(2) **By Debtor in Possession.** A debtor in possession’s notice of intent to abandon shall be served by the debtor in possession.

(3) **By Movant.** Notice of a party in interest’s motion to compel abandonment shall be ~~prepared and~~ served by the movant.

(4) **Contents.** The notice of intent or motion shall briefly describe the nature or type of property to be abandoned, including the address and legal description of the real property, if applicable, and the basis upon which the ~~case~~ trustee, debtor in possession or movant concludes that the property is burdensome to the estate or ~~that it is~~ of inconsequential value and benefit to the estate.

(5) **Parties to be Served.** The notice shall be served on those listed in Rule 6007(a).

(d) Objections. Objections must be filed with the court and served upon the ~~person(s) specified~~ case trustee or debtor in possession, and the notice movant, if applicable, within 14 days of service of the notice, or within the time fixed by the court.

(e) Hearings. Unless a timely objection is filed, a notice of ~~intention~~ intent to abandon or motion to ~~abandon property~~ compel abandonment shall not be set for hearing, unless otherwise ordered by the court.

(f) Orders.

(1) **If No Objection is Filed and Served.** If no timely objection to a notice of intent ~~to abandon~~ or motion to ~~abandon-compel abandonment~~ is filed and served, the property ~~described in the notice~~ is deemed abandoned without further order of the court, unless the court otherwise directs. If an entity desires an order of the court authorizing or ~~directing-compelling~~, and confirming, the ~~case~~ trustee's or debtor in possession's abandonment of the property, that entity may submit to the court a proposed form of order, together with a certificate of no objection which recites (A) the circumstances of compliance with the notice requirements of Bankruptcy Rule 6007 and this Local Rule, (B) that the time for objection has expired, and (C) that no objection has been filed and served, and three 3 days have passed since the last day for objections. If the proposed form of order has been approved as to form by the ~~case~~ trustee or debtor in possession, it may be signed and entered forthwith. Otherwise, it shall be lodged and a copy thereof shall be served on the ~~case~~ trustee and debtor in possession.

(2) **If an Objection is Filed and Served.** If a timely objection is filed and served, the ~~party trustee, debtor in possession or the party in interest~~ requesting the abandonment shall obtain a hearing date from the court ~~and~~, file a notice of hearing, ~~and~~ serve ~~said~~ the notice of hearing on the objecting party ~~and also prepare~~, and file a certificate of service prior to the hearing.

(3) If the party submitting a certificate of no objection pursuant to paragraph (f) (1) has actual knowledge that an objection has been filed or served, but was untimely, the certificate of no objection should so state.

Related Code and Rules: 11 U.S.C. § 554; Rules 6007, 9013, 9014, 3022 and 5009.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

~~Committee Notes 2007: No substantive changes to this rule. Subsection (e)(5) was added to note which parties are to be served. One other change was made—to subsection (f)(2)—to reflect current practice in the bankruptcy court, which is that upon an objection to a motion under this rule, the moving party is responsible to request and notice a hearing and serve same on the objecting party and file a certificate of service.~~

~~Comittee Notes (from prior rule changes):~~

~~(1) This Local Rule implements §554 of the Code and Rule 6007. This Local Rule has no application to dispositions of property pursuant to §363 of the Code or Rules 6004 or 7001(3), which involve the sale or lease of property of the estate.~~

~~(2) Rule 2002 and Local Rule 2002-1 should be consulted for general provisions relating to notice.~~

Rule 6008-1

Redemption

(a) Procedure.

(1) **Motion.** A motion shall be filed for the redemption of property.

(2) **Service.** A motion for order authorizing redemption of property shall be served upon:

(A) Any creditor claiming a lien or interest upon the property to be redeemed;

(B) The case trustee; and

(C) Any other person or entity required by law or the court.

(3) **Entry of Order.** If an objection is not timely filed and served, the proposed form of order shall be lodged and served by movant with a certificate of service and of no objection. The certificate shall not be made until the expiration of 3 days after the last day for objection.

(b) Objection.

(1) An objection shall be served and filed within 14 days of service of the notice of motion for order authorizing redemption of property.

(2) An objection shall be supported by specific facts and law. Legible copies of all appraisals or summaries thereof currently in the objector's possession or control upon which the objector intends to rely shall be attached.

(3) If a timely objection is filed and served, movant shall obtain a hearing date from the court and file a notice of hearing and serve the notice on the objecting party and file a certificate of service with the Court prior to the hearing.

Related Code Section and Rules: 11 U.S.C. § 722 and Rules 1007 and 6008.

Committee Notes ~~2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

~~2016: The notice component was not present in our local rule. The Advisory Committee Notes 2007: No substantive changes were made to this rule. One change to subsection (b)(3) was made to reflect current practice in the bankruptcy court, which is that upon an objection notes discussed the importance of giving notice to a motion under this rule, the moving party is responsible to request secured creditor. Added a notice section~~

providing 14 days to object and notice a hearing and serve same on the objecting party
and file a certificate of servicecleaned up some run-ons.

Rule 7008-1

Pleading Consent to Entry of Final Order or Judgment

In an adversary proceeding before the bankruptcy court, in addition to statements required by Rule 7008(a) of the Federal Rules of Bankruptcy Procedure, the complaint, counterclaim, cross-claim, and third-party complaint must contain a statement that the court has jurisdiction and authority to enter final orders or judgments in the adversary proceeding. If no such statement is included, the institution of an adversary seeking relief from the bankruptcy court will be deemed consent to the authority and jurisdiction of the bankruptcy court to enter final orders or judgments.

Committee Notes 2016: Local Rule 7008-1 was added to address jurisdictional issues created by the holding in Stern v. Marshall, 564 U.S. 2, 131 S.Ct. 2594, 180 L.ed.2d 475 (2011), as clarified by Wellness International Network Ltd. v. Sharif, 575 U.S. (2015), related to the institution of an adversary proceeding.

Rule 7012-1

Objection to Bankruptcy Court Jurisdiction or Authority

(a) Statement Regarding Jurisdiction. In an adversary proceeding before the bankruptcy court, and within the time set forth in Rule 7012(b) of the Federal Rules of Bankruptcy Procedure, a responsive pleading must include a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy court. If no such statement is included, the filing of a responsive pleading with the bankruptcy court will be deemed consent to the authority and jurisdiction of the bankruptcy court to enter final orders or judgments.

(b) Objection to Jurisdiction or Authority. A denial of the bankruptcy court's jurisdiction alone is insufficient to withhold consent to the bankruptcy court entering final orders or judgments. A statement objecting to the jurisdiction of the bankruptcy court must comply with Rule 12(b), Federal Rules of Civil Procedure and be accompanied by a timely filed motion under Rule 12(b), Federal Rules of Civil Procedure.

Committee Notes 2016: Local Rule 7012-1 was added to address jurisdictional issues created by the holding in Stern v. Marshall, 564 U.S. 2, 131 S.Ct. 2594, 180 L.ed.2d 475 (2011), as clarified by Wellness International Network Ltd. v. Sharif, 575 U.S. (2015), related to a responsive pleading filed in an adversary proceeding.

Rule 7016-1

Joint Pretrial Statement

(a) Contents of Joint Pretrial Statement. Unless the court orders otherwise, upon the initiative of counsel for the plaintiff or movant, counsel who will try the case and who are authorized to make binding stipulations shall confer and prepare a written pretrial statement, signed by each counsel, to be filed by the plaintiff or movant within the time set by the court or, if no time is set, then not less than seven days prior to the date of trial. Such pretrial statements shall contain the following:

(1) A brief statement of the nature of the case, including a reference to any particular sections of the Code that are involved;

(2) The uncontested facts deemed material;

~~(3) Such contested issues of fact and law as counsel can agree~~(3) Disputed facts that are material or applicable; as to each such issue (and those identified in paragraph (4) below), the parties shall state their respective positions as to what they want the court to find or conclude;

~~(4) A separate statement by each party of other issues of fact or law which that party believes to be material. As~~ as to each statement of fact, each opposing party shall state whether it contends that the statement is accurate, material and relevant;

~~(5)~~(4) Agreed issues of law that are material to the case;

~~(5)~~(5) A separate statement by each party of disputed issues of law which that party believes to be material;

~~(6)~~(6) A list of the witnesses intended to be used by each party during the trial. No witness shall be used at the trial other than those listed, except for good cause shown- or for the sole purpose of impeachment. For each witness the opposing party shall set forth, immediately following the summary of the testimony, the legal basis for any objection to the witness testifying. The joint pretrial statement must identify those witnesses whose testimony will be received by declaration or deposition testimony, and those witnesses who reside out-of-state but will be testifying live, witnesses shall not be permitted to appear telephonically without prior leave of Court and when leave is granted these appearances shall not involve the witnesses' use of wireless devices;

~~(67)~~(7) A list of all witness declarations that each party has filed or intends to introduce at trial. Any declaration not previously filed must be attached to the joint pretrial statement. As to each declaration, each opposing party shall indicate whether it may be received in evidence as is, whether it may be received in evidence only on the condition that the declarant is available at trial for cross-examination, or whether the opposing party will require that the witness testify live on direct examination~~;~~;

~~(7)~~(i) Unless otherwise ordered, the direct testimony of any expert witness shall be by written declaration and the witness shall appear in person at the hearing and shall be subject to cross examination.

(8) A statement by each party identifying any depositions to be offered at trial and indicating the specific portions to be offered and the party or parties against whom they will be offered;

(89) Each party's estimate of the time required for trial; and

(910) A certification by each party that all listed exhibits have been exchanged or made available to all other parties for inspection and copying. Any party that identifies more than ten exhibits shall arrange to have them marked in advance of trial and provide exhibit books for the witness, the court, and opposing counsel. No exhibits shall be used during the trial other than those listed, except for good cause shown.

(i) The plaintiff's or movant's exhibits should be identified by numbers; defendant's exhibits should be identified by alphabet. The courtroom deputy shall be provided with an Exhibit List prior to the start of trial.

(ii) The parties shall meet and confer as to how best to combine all exhibits on the same flash drive. At the time of trial/evidentiary hearing counsel should provide to the court two thumbdrive/flashdrives that contain the exhibits of both parties. One will be retained by the Clerk as part of the official court record; the other will be used by the judge. The flashdrive should be presented to the courtroom deputy prior to trial.

(iii) All exhibits presented at trials or evidentiary hearings are to be presented electronically. Unless otherwise authorized by the court. This does not apply to pro se parties.

(b) Draft. Unless otherwise agreed by the parties, counsel for plaintiff or movant will provide a draft of the joint pretrial statement to the other parties no later than one week prior to the deadline for filing the joint pretrial statement. All other parties shall provide input to the drafting party at least one full business day in advance of the deadline for the joint pretrial statement. If the plaintiff or movant is appearing pro per and another party is represented by counsel, counsel shall timely prepare and distribute the first draft of the joint pretrial statement.

(c) Unilateral Pretrial Statement. Any party who does not cooperate in a timely manner in preparing the joint pretrial statement may be precluded from calling any witnesses or submitting any exhibits at trial. If a party does not cooperate, any other party may file a unilateral pretrial statement by the deadline, together with a motion for authority to file a unilateral statement, explaining the details of the other party's lack of cooperation, including dates when drafts were distributed, and shall lodge an appropriate form of order granting the motion.

(d) Unrepresented Parties. Any party that is not represented by counsel shall be responsible for complying with the requirements of this Local Rule except the requirement that exhibits be presented electronically, and any reference in this Local Rule to counsel for such party shall be deemed to refer to such party.

~~Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.~~

Rule 7037-1

Discovery Disputes in Adversary Proceedings

(a) Request for Informal Conference. After personal consultation and making a sincere effort to resolve a discovery dispute in an adversary proceeding, if the dispute cannot be fully resolved without court intervention, the parties involved in the dispute shall promptly call chambers prior to filing a discovery related motion. Contact information for chambers is set forth on the Judge’s Procedures page of the Arizona Bankruptcy Court website located at www.azb.uscourts.gov. “Personal consultation” means a face to face meeting or phone discussion, in addition to emails, voice-mails, and texts.

(b) Good Faith Certification. No discovery-related motion will be considered by the court unless a statement of the moving party or its counsel, if represented, is attached certifying that after personal consultation and sincere effort to do so, the parties have been unable to resolve the matter and either the request for the informal conference has been denied or the discovery dispute has not been resolved as a consequence of the conference. “Personal consultation” means a face to face meeting or phone discussion, in addition to emails, voice-mails, and texts.

Committee Notes 2016: Experience has demonstrated that many discovery disputes can be resolved through sincere efforts and discussions by the parties and counsel, and that early guidance or intervention from the Court can often help to avoid costly and resource consuming motion practice regarding discovery disagreements. Accordingly, parties are required to engage in sincere good faith efforts and personal consultation as set forth in the Rules, and if they are unable to resolve the dispute, a telephone call to chambers is appropriate.

Rule 9004-1

Papers - Caption and Form, General

(a) Caption. The caption of each document filed, other than the petition, unless otherwise specified in this Local Rule, shall include the title of the court as set forth in Local Rule 1005-1, the name of the debtor, the chapter of the case, the bankruptcy case number in the form required by Local Rule 1005-1 and a brief designation of the nature of the relief requested.

(b) Adversary Proceedings, Contested Matters or Certain Motions. No documents, pleadings or motions other than those specified in these Local Rules shall be dual captioned. The caption of an adversary complaint and all other documents filed in an adversary proceeding shall be dual captioned. The first caption shall include the debtor's name. The second caption shall include the names of the plaintiffs and defendants. The caption shall also include the chapter, the bankruptcy case number and the adversary proceeding number, once assigned. The caption of a motion to vacate the stay and all subsequent pleadings related to the motion shall be dual captioned. The first caption shall include the debtor's name, case number, and the chapter under which the debtor filed. The second caption shall include the name of the movant and the respondent.

(c) Jointly Administered or Substantively Consolidated Cases. Unless otherwise ordered, after the entry of an order for joint administration or substantive consolidation of two or more bankruptcy cases, all documents filed shall be jointly captioned to include the debtors' names and the case numbers of all the cases ordered jointly administered or substantively consolidated. The caption shall include whether the cases are jointly administered or substantively consolidated. All documents shall be filed and docketed in only the lowest numbered case. The caption shall identify the jointly administered case or cases to which the filing relates.

(d) Date and Time of Hearing. The caption shall include the date, time and place of the hearing if known. This information shall be placed to the right of the caption name and beneath the case number.

(e) Proposed Orders. ~~Proposed orders shall be prepared as a separate document containing the appropriate caption required by this Local Rule and shall not be included as part of stipulations, motions or other pleadings.~~

(1) Proposed orders shall be prepared as a separate document containing the appropriate caption required by this Local Rule and shall not be included as part of stipulations, motions or other pleadings. The proposed order shall not contain any information identifying the party submitting the order. Such order must set forth in detail the relief to be granted, or the terms of the parties' stipulation. The proposed order shall not contain a signature block, but shall conclude with

language substantially similar to the following: **DATED AND SIGNED ABOVE.**

(2) Proposed orders must be submitted in a form that is editable in PDF format.

(3) Any certificate of mailing included with the proposed form of order must be on a separate page.

(f) Amended Pleadings. Any party filing an amended pleading may incorporate, unless otherwise ordered by the court, any part of the preceding pleading, including the exhibits, by reference.

(g) Form of Papers. All pleadings, motions and other papers shall identify in the caption the nature of the relief sought. All pleadings and other papers shall be formatted for paper 8½ inches by 11 inches and shall be signed as provided in FRBP Rule 11 or Local Rule 5005-2(f). The body of all documents shall be typed double-spaced and shall not exceed 28 lines per page; they shall not be single-spaced except for footnotes and indented quotations. All pleadings, motions and other papers shall be in a fixed-pitch type size no smaller than ten (10) pitch or in a proportional font size no smaller than 12 point, except that footnotes may be 11 point. The left margin shall be not less than 1½ inches and the right margin shall be not less than ½ inch.

Committee Notes 2016: Subsection (e) was amended to prohibit parties submitting proposed forms of order from including identifying information. It was also amended to provide that forms of order may not incorporate by reference, but must instead set forth all relief granted. Finally, for consistency in electronically entered orders, that subsection was further amended to require all such orders to contain a uniform signature block that refers the reader to the location of the date and signature.

Rule 9010-1

Attorneys – Appearance, Withdrawal, Substitution, and Change of Contact Information

(a) Attorney of Record. ~~No attorney shall appear in any action or file any document without first appearing as attorney of record. An attorney who files a petition for a client or who has appeared signed the petition as attorney for the debtor is appearing as counsel of record. An attorney may become attorney of record for an unrepresented entity by filing a notice of appearance. An attorney shall not file a notice of appearance or any document on behalf of a party in the administrative portion of a case or infor whom there already is an adversary proceeding becomes the attorney of record, unless the new attorney is appearing as co-counsel for the party, including if the case is converted to another chapter. However, an attorney.~~

(b) Duties of Counsel. ~~An attorney representing a debtor in the administrative portion of thea case is not deemed to represent the debtor in an adversary proceeding, unless the attorney enters an appearance in the adversary proceeding. An attorney of record shall remain suchis responsible for all matters until the time for appeal of any judgment has expired or any such judgment has become finalexpires, the case has beenor adversary proceeding is closed or dismissed, or the court has entered a formalan order of granting withdrawal as counsel or substitution of counsel in the case or adversary proceeding.~~

~~**(b) Withdrawal and Substitution.** No attorney shall seek withdrawal or substitution as~~
(c) Limited Appearance Attorney. ~~If the attorney of record in any pending for a debtor in a Chapter 7 or Chapter 13 case or proceeding except by written application. Unless the Rules require otherwise, is unable to appear at the application shall contain at a minimum: (1)§ 341(a) meeting of creditors due to an exigent circumstance, the name, address and telephone number of the substituting attorney may arrange for a limited appearance by another attorney, and such attorney's approval; or (2) if no substituting provided the requirements of this paragraph are met.~~

(1) No Additional Charge. Any cost of the limited appearance attorney exists, the client's name, last known address and telephone number, and a certificate of will not be charged to the debtor.

(2) Notice of the Debtor. Prior to the date of the meeting of creditors, the attorney is to personally communicate the following information to the debtor:

(A) The nature of the meeting and what to expect at the meeting both in terms of the general process and any specifics related to the debtor's case;

(B) That a different attorney will attend the meeting with the debtor; and

(C) The name and phone number of the attorney who is to appear with the debtor.

(3) Notice of Limited Appearance. Prior to the hearing, the attorney of record shall file a Notice of Limited Appearance for the appearance attorney and serve a copy on the trustee, the United States Trustee and the attorney scheduled to appear at the hearing.

(4) Notice to the Appearance Attorney. Before the meeting, the attorney of record is to provide the appearance attorney with a summary of the case, plus all documents reasonably necessary to properly represent the debtor at the meeting. These duties are required even if the appearance attorney is a member of the same law firm as the attorney of record.

(d) Withdrawal as Counsel.

(1) Court Approval Required. Except as provided in this Rule:

(A) An attorney who has appeared on behalf of a person or an entity in any matter concerning the administration of a case, in one or more proceedings, or both, may not withdraw as counsel except by filing a motion to withdraw and the court enters an order approving the motion; and

(B) No attorney shall be permitted to withdraw as counsel for a party after an action has been set for trial unless:

(1) An attorney has stipulated to substitute as counsel and the substitute counsel is advised of the trial date and will be prepared for trial or has made suitable arrangements to be prepared for trial; or

(2) Unless the court is otherwise satisfied for good cause shown that the attorney should be permitted to withdraw.

(2) Form of Motion to Withdraw. Except as provided in F.R.B.P. 3007(a), a motion to withdraw as counsel must contain the name, last known residential or mailing address, and last known telephone number of the client, and:

(A) Where such motion bears the written approval of the client, it shall accompanied by a proposed order and presented to the court; or

(B) Where such motion does not bear the written approval of the client, it shall be made by motion and served on the client and all parties in interest. The motion shall include or be accompanied by a certificate that:

(1) The attorney has been notified the client in writing of the status of the case, including the dates and timetables of any court hearings or trial settings and the need to comply, pending compliance with any existing court orders, discovery requests and the possibility of sanctions for the failure to comply. The application shall be presented to the court, may be considered without a hearing, and shall be accompanied by a proposed order containing the name, address and telephone number of the person to whom subsequent pleadings shall be sent.; or

(e) Notice. Prompt notice of any 2) If the client cannot be located or otherwise notified of the pendency of the motion and the status of the case, the application must state as such and what attempts the attorney made to locate and communicate with the client.

(d) Substitution of Counsel. Except as otherwise provided in this Rule, if a client consents to the substitution of counsel then a stipulation of attorneys, or a motion signed by the client and substitute counsel, must be filed for a substitution of attorney. The stipulation or motion, along with the proposed form of order to be lodged, must be noticed out pursuant to subsection (e). An attorney's employment as a "professional person" under 11 U.S.C. §§ 327 or 1103 is not approved merely by the filing of a substitution of attorney and service of notice thereof. Approval of employment must be obtained in compliance with the requirements of the Bankruptcy Code, F.R.B.P., and these rules.

(e) Notice.

(1) Case. An attorney of record seeking court approval for withdrawal or substitution order shall be given to all interested parties in any case, adversary proceeding, or contested matter in which the withdrawing attorney who has appeared in any matter concerning the administration of the case within seven days must give notice of the proposed substitution or motion for leave to withdraw to the debtor, United States Trustee, any case trustee, any committee appointed in the case, any party requesting special notice, and counsel for any of the foregoing.

(d) Under Advisement Matters. Whenever any 2) Adversary Proceeding. An attorney of record seeking withdrawal or substitution who has appeared on behalf of an entity in on or more adversary proceedings within seven days must give notice of the motion or other for approval of substitution or withdrawal to the debtor, each party who has been named or appeared in such proceedings, any party requesting special notice, and the United States Trustee.

(f) Compliance with F.R.B.P. 2016(b). Except where the new attorney of record is a member of the same law firm hired by the debtor prior to commencement of the case, any attorney who enters an appearance on behalf of a debtor after commencement of the case shall file any required Declaration pursuant to F.R.B.P. 2016(b) within fourteen

~~days from the date the attorney first entered an appearance in the matter (such as a decision in a bench trial) has been taken under advisement.~~

(g) Sale or Transfer of Law Firm or Practice. ~~Unless otherwise ordered by the court for more than 60 days,~~ upon written application by the new attorney of record all of the applicable requirements of this Rule must be met in the event a law firm is sold or transferred to a different attorney or law firm. A stipulation or motion for substitution of counsel for a sale or transfer of a law firm or practice must contain a statement that the attorneys ~~have complied with E.R. 1.17 of record in the matter~~ Arizona Rules of Professional Conduct.

(h) Corporation, Partnership, Unincorporated Association, or Trust. ~~An attorney moving for leave to withdraw from representation of a corporation, partnership, limited liability partnership or company, any party affected by unincorporated association, or trust, concurrently or prior to filing of such motion must give notice to the undecided matter,~~ client of the consequences of its inability to appear without counsel, including the possibility that a default judgment may ~~inquire of the be entered against it.~~ Additionally, if the client is a Chapter 11 debtor, the attorney must notify the debtor that the ~~court,~~ could appoint a trustee, convert the case to Chapter 7, or dismiss the case.

(i) Change of Address. ~~An attorney who changes office address or contact information as shown on the court docket must:~~

- ~~(1) File a change of address or contact information in each open case;~~
 - ~~(2) Make such change within the Profile section of the court's electronic case filing system; and~~
 - ~~(3) Notify the United States Trustee in writing, as to the status of the matter, and may do so every 30 days thereafter until the submitted matter has been decided.~~
- ~~of such change.~~

Rule 9010-7A

Attorney Duties to Chapter 7 Debtor and Debtor's Duties

(a) Additional Duties for Chapter 7 Debtor's Attorney. In addition to the general duties outlined in LR 9010-1, any attorney retained to represent a debtor in a chapter 7 case has certain duties in the administrative case that the attorney must personally complete. Duties required to be performed by the attorney personally cannot be delegated. The term debtor shall include both spouses in a joint bankruptcy case and a business entity.

(b) Non-Delegable Duties by Attorney. The attorney for the chapter 7 Debtor shall, at a minimum, perform all non-delegable duties outlined in Local Form 9010-7A, Declaration of Responsibilities of Debtor and Debtor's Attorney in Chapter 7 Cases, herein referred to as "the Declaration". These non-delegable duties apply to any attorney retained to assist the debtor in a chapter 7 case, including those who elected to offer reduced fees prior to filing the case.

(c) Debtor's Duties. A represented debtor in Chapter 7 case has certain obligations and duties before, during and after the case. The debtor must, at a minimum, provide the information and perform the duties set forth in the Declaration.

(d) Certification of Compliance with Attorney's Non-Delegable Duties and Debtor's Duties. Within seven (7) days after the commencement of the bankruptcy case, or the conversion from another chapter, the attorney is required file the Declaration with the Clerk of the Court. The attorney's signature on the Declaration certifies that the attorney provided, at a minimum, the enumerated services and non-delegable duties through the date of filing the petition and will continue to provide, at a minimum, the listed services after filing until the case is closed or an order is entered authorizing the attorney's withdrawal. The debtor's signature on the Declaration shall certify that the debtor has received and reviewed the entire Declaration, received advice from the debtor's attorney as described therein and received a copy of the Declaration signed by Debtor's Attorney. The Declaration filed with the court's electronic filing system shall contain a digital image of the original signatures of both the attorney and the debtor.

(e) Limiting Scope of the Representation.An attorney may limit the scope of the representation only if the debtor gives informed written consent to the limited representation. Debtor's informed consent may only occur if the attorney personally communicated and disclosed to the debtor the services that are omitted from representation and provided adequate information and explanation of the risks to the debtors in consenting to limited representation. Any such limitation may not exclude any of the non-delegable duties outlined in the Declaration.

(f) Services Not Within the Scope of the Representation. Pursuant to LR 9010-1, and unless otherwise agreed, the Attorney has no responsibility to represent the

debtor in adversary proceedings or the filing or defending of appeals. If any of these proceedings are filed against the debtor, the Debtor's Attorney has a non-delegable duty to personally explain the following to the debtor:

- a. The nature of the proceeding filed and possible outcomes;
- b. All information required pursuant to (I)(2) of the Declaration and the estimated costs of providing representation in the proceeding if Debtor's Attorney is willing to undertake the representation, or if not, a referral to other bankruptcy attorneys or services that may assist with legal representation;
- c. The risks and consequences of an adverse judgment;
- d. The risks and consequences of proceeding without counsel;
- e. The option to retain separate counsel for the proceeding.

(g) Attorneys Receiving Less Than Full Payment of Fees Prior to Filing Chapter 7 Cases: In the event the Debtor's Attorney files the case without having been paid in full for the representation in the administrative case, Debtor's Attorney must:

- a. Personally perform all the non-delegable duties as provided in the Declaration, even if debtor fails to pay as agreed following the commencement of the case.
- b. Personally provide the debtor written notification that any fees and costs that were not paid at the time the bankruptcy was filed will be discharged in full and any payment of such fee and/or costs is strictly voluntary; this notification must be signed by the debtor and filed with the Declaration.

(h) Debtor's failure to pay as agreed does not constitute sufficient grounds for withdrawal by Debtor's Attorney.

(i) Attorneys Filing a Bankruptcy Case Without Paying the Entire Filing Fee: Attorneys are strongly discouraged from filing of chapter 7 without paying the filing fee in full. If the filing fee is not paid in a timely fashion, the Court may enter an order to show cause against the attorney and/or order the disgorgement of attorney fees.

(j) Disgorgement of Fees. Failure to comply with all of the requirements of the Declaration may result in disgorgement of some or all of the fees collected from debtor or on behalf of debtor.

(k) No limitation. Nothing in this Rule shall be construed to limit Local Rule 9010-1. Adjustments to Local Forms 9010-3(A) & (B); As provided in Section 104 the fees and duties described in Local Forms 9010-3(A) and (B) may be reviewed every three years, beginning April 1, 2016.

The following subsection on Pre-filing Preparation services was discussed by the Chapter 7 subcommittee, but the committee members voted to submit the provision for consideration by the Judges:

(I) Attorneys Providing Only Pre-Filing Preparation Services: In a chapter 7 case Attorney may limit their scope of representation only if the debtor’s financial situation meets the following criteria:

a. The debts are primarily consumer and there are no secured or priority debts.

b. There are de minimis non-exempt assets, including anticipated tax refunds.

c. If the Attorney limits the scope of services to pre-filing representation the attorney shall:

1. File the Declaration required by Bankruptcy Rule 2016(b).

2. File Local Form 9010-7A-?? (do we need a new RARA*), Declaration of Debtor Counsel’s Personal Compliance with Non-delegable Duties for Pre-Filing Preparation Services within seven (7) days after filing the Chapter 7 petition. The form shall be filed electronically, but must contain a facsimile of the original signature of the attorney and not the attorney’s electronic signature.

3. Charge fees no greater than \$450.

*this new RARA would basically follow the format and requirements of rule and form 9010-7A.

Committee Notes 2016:

Sources:

- Provisions for Limited Scope of Representation are sourced in “Best Practices for Limited Services Representation Consumer Bankruptcy Cases” from The Final Report of the ABI National Ethics Task Force, pp 50-63.
- United States Bankruptcy Court, District of Minnesota, Local Forms 1007-3-1(7) & (13) – Chapter 7 and 13 cases
- The Central District of California RARA’s of for Chapter 13 cases
- The Southern California District RARA for Chapter 13 cases.
- District of Massachusetts Rule 8 from the District’s RARA’s for Chapter 13 cases.

- Eastern District of Kentucky's RARAs for Chapter 13 cases.

Rule 9010-7B

Bankruptcy Petition Preparers Nondelegable Duties to Chapter 7 Debtor and Debtor's Duties

a) Preparing Documents Filed With the Bankruptcy Court:

1. The Debtor may prepare and file bankruptcy documents.
2. Only a licensed Arizona attorney or a bankruptcy petition preparer may assist the Debtor in preparing documents for filing with the Bankruptcy Court.

b) Nondelegable Duties by Bankruptcy Petition Preparer. In addition to USC 110, USC 526, USC 527, USC 528 the general duties outlined in LR 9010-1 and the certification requirements of LR 2090-2, the bankruptcy petition preparer for the chapter 7 Debtor shall perform all non-delegable duties outlined in Local Form 9010-7-BPP, Declaration of Responsibilities of Debtors and Debtor's Bankruptcy Petition Preparer in Chapter 7 Cases, herein referred to as "the Declaration". These non-delegable duties apply to any bankruptcy petition preparer assisting the Debtor in preparing for and/or filing a chapter 7 case.

c) Debtor's Duties. A debtor in Chapter 7 case has certain obligations and duties before, during and after the case. The Debtor must, at a minimum, provide the information and perform the duties set forth in the Declaration. The term Debtor shall include both spouses in a joint bankruptcy case.

d) Certification of Compliance with Bankruptcy Petition Preparer's Non-Delegable Duties and Debtor's Duties. Within seven days from the commencement of the case the bankruptcy petition preparer is required file the Declaration with the Clerk of the Court. The bankruptcy petition preparer's signature on the Declaration shall certify that the bankruptcy petition preparer provided the enumerated services and nondelegable duties through the date of filing the petition and after, if necessary. The Debtor's signature on the Declaration shall certify that the Debtor received and reviewed the entire the Declaration and all documents filed with the Court, received appropriate information from the Debtor's bankruptcy petition preparer as described therein and received a fully executed copy of the Declaration. Pursuant to Local Rule 5005-3(A) the Debtor shall file the original Declaration with the Clerk of the Court with original signatures of both the bankruptcy petition preparer and the Debtor.

e) Bankruptcy Petition Preparers may not withhold documents. The bankruptcy petition preparer shall immediately provide the Debtor a copy of all documents filed with the court. The bankruptcy petition preparer shall not withhold any documents from Debtor for nonpayment.

f) Bankruptcy Petition Preparer Receiving Less Than Full Payment of Fees Prior to Filing Chapter 7 Cases: In the event the Debtor's bankruptcy petition

preparer files the case without having been paid in full for the representation in the administrative case, Debtor's bankruptcy petition preparer must:

1. Personally perform all the non-delegable duties as provided in the Declaration, even if Debtor fails to pay as agreed following the commencement of the case;
2. Personally provide the Debtor a written notification that any fees and costs that were not paid at the time the bankruptcy was filed will be discharged in full and any payment of such fees and/or costs is strictly voluntary. This notification must be signed by the Debtor and filed with the Declaration.

g) Fees for Bankruptcy Petition Preparers: A bankruptcy petition preparer may not charge fee more than \$200 for preparing all documents in the Chapter 7 case, including any amendment to any documents, or any and all expenses such as photocopying, costs of credit reports, gas, messenger, courier charges, postage and telephone charges. A bankruptcy petition preparer may not collect, receive or handle the court fees in connection with your bankruptcy case. No additional fees are appropriate without an order of the Court.

h) Disgorgement of Fees. Failure to comply with all of the requirements of this Local Rule and the Declaration may result in disgorgement of some or all of fees collected from Debtor or on behalf of Debtor.

i) No limitation. Nothing in this rule shall be construed to limit Local Rule 9010-1, the Bankruptcy Code, any Bankruptcy Rules or Procedures, including but not limited to 11 USC 110..

Committee Notes 2016:

Sources:

- http://www.justice.gov/ust/r05/docs/general/guidelines/bank_pet_prep.pdf
- United States Trustee, Central District of California – Bankruptcy Petition Preparer Guidelines (issues March 1, 2014)
- Declaration and signature of Non-Attorney Bankruptcy Petition Preparer B19 (Official Forms 19) (12/07)

Rule 9010-7C

Unrepresented Debtor's Duties in a Chapter 7

(a) Debtor's Duties. Chapter 7 Debtors have certain obligations and duties before, during and after the case. The Debtor must provide the information and perform the duties set forth in Local Form 9010-4A, Declaration of Responsibilities of Debtors in Chapter 7 Cases, herein referred to as “the Declaration”. The term debtor shall include both spouses in a joint bankruptcy case.

(b) The Declaration of Debtor's Duties in Chapter 7. Within seven (7) days from the filing of the bankruptcy case the Debtor must file the Declaration with the Clerk of the Court. The Debtor's signature on the Declaration shall certify that the Debtor is aware of all obligations and duties set forth in the Declaration.

(c) Fees Paid to Anyone Who Assisted in Preparing any Documents: Pursuant to LR 1007 (Declaration Under Penalty of Perjury for Debtors Without an Attorney) the Debtor must disclose to the Court and trustee all fees paid to anyone who assisted in preparing any documents for the chapter 7 case. This requirement includes attorneys, paralegals, legal document preparers or any other person or service. Failure to disclose the payment of any fees may be deemed to be perjury and the Debtor may be subject to sanctions.

(d) No limitation. Nothing in this rule shall be construed to limit local rule 9010-1.

Committee Notes 2016:

Sources:

- Provisions for Limited Scope of Representation are sourced in “Best Practices for Limited Services Representation Consumer Bankruptcy Cases” from The Final Report of the ABI National Ethics Task Force, pp 50-63.
- United States Bankruptcy Court, District of Minnesota, Local Forms 1007-3-1(7) & (13) – Chapter 7 and 13 cases
- The Central District of California RARA’s of for Chapter 13 cases
- The Southern California District RARA for Chapter 13 cases
- District of Massachusetts Rule 8 from the District’s RARA’s for Chapter 13 cases
- Eastern District of Kentucky’s RARAs for Chapter 13 cases.

Rule 9010-13A

Scope of Representation: Attorney Non-Delegable Duties to Chapter 13 Debtor and Debtor's Duties

(a) Duties for Chapter 13 Debtor's Attorney.

(1) This Rule applies to Chapter 13 cases. The term "Debtor" includes both spouses in a joint bankruptcy case.

(2) In addition to the general duties outlined in Local R. Bankr. P. 9010-1, any attorney retained to represent a debtor in a Chapter 13 case has certain non-delegable duties in the administrative case that the attorney must personally perform and cannot be delegated. An attorney for the Chapter 13 debtor shall, at a minimum, perform all non-delegable duties outlined in Local Form 9010-13A, Declaration of Responsibilities of Debtors and Debtor's Counsel in Chapter 13 Cases.

(b) Debtor's Duties. A represented debtor has certain duties before, during and after the case. The debtor must, at a minimum, provide the information and perform the duties set forth in Local Form 9010-13A.

(c) Certification of Compliance with Attorney's Non-Delegable Duties and Debtor's Duties. Within seven days from the commencement of the case or within seven days after conversion to Chapter 13, the attorney for the debtor is required file Local Form 9010-13A with the Clerk of the Court. The attorney's signature on the Form shall certify that the attorney provided, at a minimum, the enumerated services and non-delegable duties through the date of filing the Petition and will continue to do so until the case is closed. The debtor's signature on the Form shall certify that debtor has received and reviewed the entire Form, received advice from the debtor's attorney as described therein and received a fully executed copy of the Form. The certification filed with the court's electronic filing system shall contain a digital image of the original signatures of both the attorney and the debtor.

(d) Attorney Fees. Attorney fees for representing a Chapter 13 debtor may be approved and paid as part of the Chapter 13 plan confirmation process as follows:

(1) No Look Attorney Fee. An attorney may seek approval for fees and receive approval in an Order for an amount no greater than the presumptive No Look fee as defined in Local Form 9010-13A without filing a formal fee application or an itemized statement of services rendered if:

(A) Attorney provides and agrees to provide all duties as defined in Local Form 9010-13A;

(B) There is no objection to the requested fees within the deadline to a file plan objection; and

(C) The Court does not determine that the fees were unreasonable or unearned.

(2) Adjustment of Fee Amounts. On April 1, 2016 and at each three-year interval ending on April 1 thereafter, the No Look amounts in Local Form 9010-13A shall be reviewed and may be adjusted by the Court.

(3) Fee Applications Exceeding the No Look Amount. The Court will not approve additional fees exceeding the No Look amount unless the attorney submits an Application for Allowance of Compensation and Reimbursement of Expenses in compliance with 11 U.S.C. § 330 and Fed. R. Bankr. P. 2016. The application must document all services provided from the beginning of the case, including services that were covered by the No Look fee and services rendered pre-petition.

(A) Any such application shall include, as an exhibit or attachment, an itemized time record of each specific service for which an award of compensation is sought. This itemized time record shall:

(i) State the date each service was rendered;

(ii) Identify the attorney or paralegal who performed the service and their hourly rate;

(iii) Describe with particularity the services rendered. Each task must have its own time entry. Unrelated tasks or services must not be grouped or lumped together; and

(iv) State the time spent performing the service. All time listed must be recorded reasonably contemporaneously, represent the actual time required to perform the activity, and be stated in increments of a tenth of an hour. The minimal billing increment shall be no more than one-tenth (.1) of an hour.

(B) The rate charged must be commensurate with the level of skill required for a particular task; for example, attorney rates or paralegal rates may not be charged for non-legal work, such as copying or delivering documents, preparing or filing proofs of service, or for duties generally performed without the assistance of an attorney.

(C) Post-Confirmation Fee Applications.

(i) If the confirmed plan does not provide for the payment of additional fees and approval of the fees would negatively impact the

distribution to unsecured creditors, then the fee application must clearly and conspicuously specify how the additional fees will affect the distribution to creditors or otherwise adversely affect the parties in interest.

(ii) If the additional fees will require an increased plan payment amount or increased plan duration, the attorney must file a modified plan, contemporaneously with the fee application, providing for the increased plan payment amount and/or duration. The additional compensation will not be disbursed until the court confirms the modified plan. Any order approving a fee application lodged by the applicant must not provide otherwise.

(iii) The fee application and any necessary modified plan must be served on all parties listed on the current Master Mailing Matrix.

(4) Payment of Fees Through Trustee. Except for fees received prepetition, all fees under this subsection shall be paid through the Trustee unless otherwise ordered by the Court or as provided in section (5) below.

(5) Payment of Attorney Fees for Newly Retained Attorney. After the case has been filed or converted to Chapter 13, if the debtor seeks to retain a new attorney, that attorney may accept payment of fees directly from funds not otherwise committed to the plan.

(A) The newly retained attorney must file the disclosure statement required by Fed. R. Bankr. P. 2016, and must disclose the services to be performed and the fees for those services, and provide a copy of the disclosure to the debtor.

(B) Any fees accepted or sought by the newly retained attorney are subject to review by the Court and must be applied for pursuant to the requirements of section (d).

(e) Duty to Represent Debtor in Administrative Case. Nothing in this provision excuses Attorney from representing the debtor in all matters in the administrative case, unless and until an order is entered allowing attorney to withdraw.

(f) Scope of the Representation. Absent a court order, an attorney is not permitted to limit the scope of the representation in the administrative case. An attorney who prepared documents to be filed in the case must appear as attorney of record and comply with the requirements of the Local Form. A debtor's attorney is not required to represent a debtor in any adversary proceeding or appeal, unless otherwise agreed to between debtor and debtor's attorney.

(g) Disgorgement of Fees. All fees are subject to subsequent disgorgement upon an order of the court. Failure to comply with all of the requirements of Local Form 9010-

13A may result in disgorgement of some or all of the fees collected from a debtor or on behalf of a debtor. No plan or confirmation order shall bar by res judicata or otherwise the subsequent review and potential disgorgement of the fees.

(h) No limitation. Nothing in this rule shall be construed to limit Local Rule 9010-1, or counsel's duties pursuant to Arizona's Rules of Professional Conduct.

Committee Notes 2016: The concept of a Flat Fee case has been eliminated in this Rule. All cases are essentially hourly cases. However, an Attorney whose fees in a particular case will not exceed the No Look fee amount as provided in Paragraph (d)(1) will not need to keep hourly time records for that case. If there is any chance that the complexity of the case may exceed the No Look fee amount, then hourly time records will be required to have been kept as of the beginning of the case.

Rule 9010-13B

Unrepresented Debtor's Duties in a Chapter 13

(a) Debtor's Duties. This Rule applies to Chapter 13 cases. Debtors have certain obligations and duties before, during and after the case. The Debtor must provide the information and perform the duties set forth in Local Form 9010-13B, Declaration of Responsibilities of Debtors in Chapter 13 Cases, herein referred to as “the Declaration.” The term Debtor shall include both spouses in a joint bankruptcy case.

(b) The Declaration of Debtor's Duties in Chapter 13. Within seven days from the filing of the petition or after conversion to Chapter 13, the Debtor must file the Declaration with the Clerk of the Court. The Debtor's signature on the Declaration shall certify that the Debtor is aware of all obligations and duties set forth in the Declaration.

(c) Fees Paid to Anyone Who Assisted in Preparing any Documents: Pursuant to Local Rule 1007-1(g) (Declaration Under Penalty of Perjury for Debtors Without an Attorney) the Debtor must disclose to the Court and the Trustee all fees paid to anyone who assisted in preparing any documents for the case. This requirement includes attorneys, paralegals, legal document preparers or any other person or service. Failure to disclose the payment of any fees may be deemed to be perjury and the Debtor may be subject to sanctions.

(d) Document Preparation. Unrepresented debtors may prepare their own documents for filing in the bankruptcy. Due to the complexity of Chapter 13 cases, only attorneys licensed and admitted to practice before the District Court of Arizona may prepare any documents in a Chapter 13 case. Bankruptcy petition preparers shall not prepare documents for filing in a Chapter 13 case.

(e) No limitation. Nothing in this rule shall be construed to limit Local Rule 9010-1.

Committee Notes 2016:

Sources:

- Arizona Bankruptcy Court General Order 106
- Provisions for Limited Scope of Representation are sourced in “Best Practices for Limited Services Representation Consumer Bankruptcy Cases” from The Final Report of the ABI National Ethics Task Force, pp 50-63.
- United States Bankruptcy Court, District of Minnesota, Local Forms 1007-3-1(7) & (13) – Chapter 7 and 13 cases
- The Central District of California RARA’s of for Chapter 13 cases

- The Southern California District RARA for Chapter 13 cases
- District of Massachusetts Rule 8 from the District's RARA's for Chapter 13 cases
- Eastern District of Kentucky's RARAs for Chapter 13 cases
- Local Rules United States Bankruptcy Court District of Maryland

Rule 9013-1

Motion Practice

For purposes of these Local Rules, a request for an order, including a motion, application or other pleading (all of the foregoing will be referred to in this Local Rule as a "motion") shall be governed by the following requirements.

(a) Motions. All motions, unless made in open court, shall include a memorandum setting forth the points and authorities relied upon in support of the motion.

(b) Length of Motions and Memoranda. Unless otherwise permitted by the court, a motion and the supporting memorandum, a response and the supporting memorandum, and any reply and the supporting memorandum shall not exceed 15 pages, exclusive of attachments.

(c) Response and Reply Times for Motions. Unless otherwise set forth in the Rules, the Local Rules, the notice prescribed in paragraph (j) or an order of the court, the party responding to a motion shall have 14 days after service within which to serve and file a responsive memorandum, and the moving party shall have 14 days after service of the responsive memorandum to serve and file a reply.

(d) Unopposed or *Ex Parte* Motions. Motions that the moving party contends are unopposed or need not be set for hearing shall so state and be accompanied by a separate proposed order granting the relief requested. If the moving party contends that the motion should be granted on an *ex parte* basis, the motion shall state why it may be granted without notice and shall be accompanied by a form of order.

Unless otherwise ordered by the court, the following motions may be filed as *ex parte* motions. This list is not intended to be exclusive, and other motions may be filed on an *ex parte* basis, provided the court has authorized the moving party to do so.

(1) Motions for 2004 examinations

(2) Applications to approve estate professionals

(3) Motions to exceed the page limit (disfavored and should include explanation)

(4) Motions to set bar date for filing of claims

(5) Motion to pay filing fee in installments

(6) Motion to continue hearing, with statement of whether opposing counsel consented, and if not, the reason consent was not obtained

(7) Motion to delay discharge

(8) Motion to appear pro hac vice

(9) Motion to reopen a chapter 11 case

(10) Trustee's motion to defer filing fee

(11) Motion to withdraw as counsel

(e) Discovery Disputes. ~~No motion concerning~~

(1) Request for Informal Conference. After personal consultation and making a sincere effort to resolve a discovery dispute, if the dispute cannot be fully resolved without court intervention, the parties involved in the dispute shall promptly call chambers prior to filing a discovery related motion. Contact information for chambers is set forth on the Judge's Procedures page of the Arizona Bankruptcy Court website located at www.azb.uscourts.gov disputes. "Personal consultation" means a face to face meeting or phone discussion, in addition to emails, voice-mails, and texts.

(2) Good Faith Certification. No discovery-related motion will be considered by the court unless a statement of the moving party or its counsel, if represented, is attached certifying that after personal consultation and sincere ~~effort~~effort to do so, the parties have been unable to resolve the matter and either the request for the informal conference has been denied or the discovery dispute has not been resolved as a consequence of the conference. "Personal consultation" means a face to face meeting or phone discussion, in addition to emails, voice-mails, and texts.

(f) Motions to Compel. When a motion for an order compelling discovery is brought, in addition to the requirements set forth in paragraph (e) above, the moving party shall set forth the following in separate, distinct, numbered paragraphs:

- (1) The questions propounded, the interrogatory submitted, the designation requested or the inspection requested;
- (2) The answer, designation or response received; and
- (3) The reason(s) why said answer, designation or response is deficient.

The foregoing requirements shall not apply where there has been a complete failure to respond to a discovery request.

(g) Motions for Summary Judgment. Any motion for summary judgment shall set forth separately from the memorandum of law, and in full, the specific facts upon which the moving party relies in support of the motion. The specific facts shall be set forth in serial fashion, not in narrative form. As to each fact, the statement shall refer to a specific portion of the record where the fact may be found (~~i.e., for example,~~ affidavit, deposition, discovery responses, etc.). A failure to submit a separate statement of facts in this form may constitute grounds for the denial of the motion.

(1) Any party opposing summary judgment must comply with the foregoing in setting forth the specific facts relied upon in opposing the motion or that otherwise establish that a genuine issue of material fact exists that precludes summary judgment.

(2) In the alternative, the moving party and the opponent shall jointly file a stipulation setting forth a statement of the stipulated facts, if the parties agree that there is no genuine issue of material fact. As to any stipulated facts, the parties may state that their stipulations are entered into only for the purposes of the motion for summary judgment and are not to be otherwise binding.

(3) Unless otherwise set forth in the Federal Rules, the Local Rules, or an order of the court, and notwithstanding the provisions of paragraph (c) above, the party opposing or responding to a motion for summary judgment shall have 30 days after service within which to serve and file a responsive memorandum and the moving party shall have 14 days after service of the responsive memorandum to serve and file a reply.

(h) Accelerated Hearings. Motions to accelerate hearings or reduce notice periods are disfavored and should not result from delay or inadvertence by the moving party or its counsel. The procedure for requesting such relief shall be governed by the following requirements.

(1) The moving party shall make every practicable effort to notify opposing parties, if any, and shall serve the pleadings at the earliest possible time and by the most expeditious means practicable.

(2) The request for relief shall be a separate motion and bear a caption such as "Motion for Accelerated Hearing" or "Motion to Reduce Notice Period." A proposed order granting the relief requested shall be lodged with the motion.

(3) Such motion shall contain:

(A) The telephone numbers, fax numbers, e-mail addresses and office addresses of the attorneys for the opposing parties;

(B) Facts showing the existence and nature of the claimed emergency; and

(C) When and how counsel for the opposing parties were notified and whether they have been served with the motion, or, if not notified and served, why that was not done.

(i) Motions for Continuance or Extensions of Time. Requests for continuance of hearings or extensions of time as to briefing schedules or other matters shall state whether any other party objects to the request, or why the moving party has been unable to determine the other party's position.

(j) Notice for Motion Requiring a Hearing. For any motion that requires a hearing, it shall be the responsibility of the moving party to obtain from the court the date, time and location of the hearing and to provide notice thereof to all interested parties in substantially the following format:

(1) In addition to the date, time and location of the hearing, the notice shall specify the details of the requested relief, the deadline for any response or objection, and the requirement that any response or objection be filed with the court and served on the moving party.

(2) The notice may state that the court may vacate the hearing and grant the requested relief if no timely objection is served and filed.

(3) The moving party shall serve the notice as required by the Rules, Local Rules, or order of the court and file a certificate or affidavit of service.

(4) If a bar date notice has been utilized and an objection has been filed with the court or received by the moving party, the moving party shall serve on the objecting party or parties an abbreviated form of notice that states the date, time and location of the hearing, and shall file a certificate or affidavit of service.

(k) Relief Possible on 21-Day Negative Notice.

(1) In addition to the bar date procedures established by these Local Rules, unless the court orders otherwise, the moving party may use a 21 day bar date notice for all:

~~(1) Motions to approve § 363 sales other than real property, and other than pursuant to Code §363(h);~~

~~(2)(A) Motions to approve compromises and settlements pursuant to Bankruptcy Rule 9019, except where a party to the settlement is not represented by counsel; Motions to approve § 363 sales other than real property, and other than pursuant to Code §363(h);~~

~~(3)(B) Motions to approve compromises and settlements pursuant to Fed R. Bankr. P 9019, except where a party to the settlement is not represented by counsel;~~

~~(C) Applications for professional fees;~~

~~(4)(D) Objections to exemptions claimed by the debtor;~~

~~(5)(E) Motions by debtors to sell or refinance homestead property; ~~and,~~~~

~~(6)(F) Motions to set extend time to assume or reject a claims bar date in lease or executory contract;~~

(G) Motions by debtor to avoid liens; and

(H) Motions by debtor for continuance of automatic stay pursuant to Code §362(c)(3)(B).

(2) All motions and applications using the negative notice process must comply with Local Rule 2002-2.

(3) Notwithstanding the provisions of this Local Rule, the court may order that negative notice is appropriate for other motions or applications on a ~~chapter 11~~ case by case basis.

The moving party must serve a detailed notice of the motion on all parties entitled to notice, clearly stating the requirement to respond within the time allowed, and must file a certificate of service. Upon expiration of the time stated, plus an additional three days, and provided that no objections have been filed, the moving party may file a certificate of service and of no objection and lodge an appropriate order granting the relief requested. The lodged order must conform to the relief requested in the motion. If an objection is filed, the movant must obtain a hearing date, serve notice on all parties entitled to notice and file a certificate of service.

Committee Notes ~~2009: Time deadlines have been amended to be consistent with 2016:~~ The 2014 amendments to Local Rule 9013-1(b) are intended to clarify the ~~Federal~~ fifteen page limit for responses and replies (including supporting memoranda).

Committee Notes 2016: This amendment to Local Rule 9013-1(d) is intended to clarify which motions could be filed *ex parte*.

Committee Notes 2016: Subsection (e) was further amended to define the sincere efforts and procedure that should be followed in the event of a discovery dispute.

Committee Notes 2016: This was changed solely to address formatting issues.

Committee Notes 2016: This local rule has been updated to reference the new Local Rule 2002-2 for proper noticing procedures in connection with matters done via negative notice. This local rule is intended to provide a comprehensive list of all matters for which negative notice is allowed and may not be mentioned in any of the other Local Rules of Bankruptcy Procedure, effective December 1, 2009. Other matters not specifically provided for in these Local Rules may not be handled by negative notice absent specific court order allowing the use of negative notice pursuant to (3).

Revision Notes:

1. Subsection (g) has been eliminated as the procedure for claim objections is specifically set forth in Local Rule 3007.
2. Subsection (h) has been added.

3. Subsection (3) has been amended to clarify that the court may allow the use of negative notice for actions other than the actions listed in the local rule on a case by case basis.
4. The comment has been amended to clarify the intent of the rule.

Rule 9014-2

Consent and Objection to Bankruptcy Court Jurisdiction or Authority

(a) Initial Pleading. In a contested matter before the bankruptcy court, in addition to requirements of Rules 9013 and 9014 of the Federal Rules of Bankruptcy Procedure, the motion, objection or other pleading which begins the contested matter must contain a statement that the court has jurisdiction and authority to enter final orders or judgments in the matter. If no such statement is included, the filing of a motion, objection or other pleading instituting a contested matter seeking relief from the bankruptcy court will be deemed consent to the jurisdiction and authority of the bankruptcy court to enter final orders or judgments.

(b) Responsive Pleading. In a contested matter before the bankruptcy court, the initial responsive pleading must include a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy court. If no such statement is included, the filing of a responsive pleading with the bankruptcy court will be deemed consent to the authority and jurisdiction of the bankruptcy court to enter final orders or judgments.

(c) Objection to Jurisdiction or Authority. An objection to the bankruptcy court's jurisdiction or authority alone is insufficient to withhold consent to the bankruptcy court entering final orders or judgments. A statement objecting to the jurisdiction or authority of the bankruptcy court must comply with Rule 12(b), Federal Rules of Civil Procedure and be accompanied by a timely filed motion under Rule 12(b), Federal Rules of Civil Procedure.

[Question for Judges' Consideration—Is this paragraph appropriate in a motion context as Rule 12 applies to adversary proceedings but not necessarily to contested matters. Rule 9014 does not incorporate rule 12 in contested matters]

Committee Notes 2016: Local Rule 9014-2 was added to address jurisdictional issues created by the holding in Stern v. Marshall, 564 U.S. 2, 131 S.Ct. 2594, 180 L.ed.2d 475 (2011), as clarified by Wellness International Network Ltd. v. Sharif, 575 U.S. _____ (2015), related to contested matters.

Rule 9014-~~23~~

Hearings on Contested Matters

(a) Initial Hearing without Live Testimony. Pursuant to Bankruptcy Rule 9014(e), all hearings scheduled on contested matters will be conducted without live testimony except as otherwise ordered by the court. If, at such hearing, the court determines that there is a material factual dispute, the court will schedule a continued hearing at which live testimony will be admitted.

(b) Request for Live Testimony.

(1) Any party filing a motion, application, or objection who reasonably anticipates that its resolution will require live testimony may file an accompanying motion for an evidentiary hearing, stating:

(A) The estimated time required for receipt of all evidence, including live testimony;

(B) When the parties will be ready to present such evidence;

(C) The estimated time required to complete all formal and informal discovery;

(D) Whether a Bankruptcy Rule 7016 Scheduling Conference should be held; and,

(E) Whether any party who may participate at the evidentiary hearing is appearing pro se.

(2) The party requesting an evidentiary hearing shall accompany the motion with a form of order.

(3) Any response to a motion for an evidentiary hearing shall be served and filed within seven days of service of the motion. The time computation and enlargement provisions of Rule 9006 shall not apply to the response deadline, except that the responding party shall have an additional 3 days to respond if the motion is served by mail.

(4) Based upon the motion and any responses, the court will either finalize the order setting the matter for hearing or request that the parties appear for a Bankruptcy Rule 7016 Scheduling Conference.

Committee Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Committee Notes 2007: This Rule is derived from former General Order 86.

Rule 9014-4

Under Advisement Matters

Whenever any motion or other matter (such as a decision in a bench trial) has been taken under advisement by the court for more than 60 days, the attorneys of record in the matter, or any party affected by the undecided matter, may inquire of the court, in writing, as to the status of the matter, and may do so every 30 days thereafter until the submitted matter has been decided.

Rule 9022-1

Judgments or Orders

(a) Submission of Proposed Judgments or Orders. Proposed Judgments or Orders shall be electronically submitted to the court by attorneys and case trustees using Order Upload in the ECF System.

(b) Notice of Lodging Judgment or Order. Immediately after electronically submitting the proposed judgment or order into the ECF system, the submitting attorney or case trustee shall also electronically file on the case docket a Notice of Lodging the Judgment or Order with the proposed judgment or order attached.

(c) Service of Judgment or Order by Clerk. The clerk is authorized to serve on those parties, who have consented to service by electronic means, the notice of entry of an order or judgment by service of the “Notice of Electronic Filing” generated on the entry of the order or judgment. For such electronic service to be accomplished by the court’s ECF system server, the consenting party must enable the ECF system provided e-mail notification so that such service can be made. Such electronic service will be noted on the docket when the docket report is generated which includes the links to the “Notices of Electronic Filing.”

(d) Objection to Power of Bankruptcy Court to Enter a Final Judgment. Any objection to the power of the bankruptcy court to enter a final judgment, whether based on the bankruptcy court’s jurisdiction or authority, must be included in the initial responsive pleading filed in the matter, or if such Order or Judgment is entered by default, within 14 days after entry of such judgment pursuant to Bankruptcy Rules 9021 or 9022.

(e) Appellate Court Determination. If an appellate court holds that the bankruptcy court lacked jurisdiction or authority to enter a final judgment in a particular case -

(1) then the judgment or order together with any findings and conclusions made on the record will be deemed to constitute proposed findings of fact and conclusions of law; and

(2) upon entry of the order from the appellate court on the docket of the bankruptcy case, the bankruptcy clerk will promptly transmit the deemed proposed findings of fact, proposed conclusions of law, and proposed order or judgment to the district court clerk for assignment to and resolution by a district court judge.

Committee Notes 2016: Local Rule 9022-1 was amended to address jurisdictional issues created by the holding in Stern v. Marshall, 564 U.S. 2, 131 S.Ct. 2594, 180 L.ed.2d 475

(2011), as clarified by Wellness International Network Ltd. v. Sharif, 575 U.S. (2015). The party asserting that the Bankruptcy Court lacks the power to issue a final judgment must specifically assert this argument in the initial responsive pleading, or if entered by default, within 14 days of the entry of the judgment, or the argument shall be deemed waived.

Committee Notes 2007: Paragraph one and three incorporate requirements of ECF Interim Operating Order No. 8. Paragraph two is a new requirement that will provide notice of the uploading of a proposed order or judgment.

Rule 9023-1

Motion to Reconsider Order or Judgment

(a) Procedure.

(1) Timing. Absent good cause shown, a motion to reconsider an order or judgment shall be filed within fourteen days of the entry of the court's order or judgment.

(2) Form and Content of Motion. A motion for reconsideration of an order absent a showing of manifest error or a showing of new facts or legal authority that could not have been brought to the court's attention earlier with reasonable diligence will ordinarily be denied. Any such motion shall point out with specificity the matters that the movant believes were overlooked or misapprehended by the court, any new matters being brought to the court's attention for the first time and the reasons they were not presented earlier, and any specific modifications being sought in the court's order. No motion for reconsideration of an order may repeat any oral or written argument made by the movant in support of or in opposition to the motion that resulted in the order. Failure to comply with this subsection may be grounds for denial of the motion. Parties and attorneys for the parties shall not file a motion to reconsider the court's denial of a prior motion for reconsideration.

(3) Notice. Movant shall obtain a hearing date, set the matter for oral argument and notice any interested party, the case trustee and the United States Trustee. Movant shall file a notice of hearing and certificate of mailing which provides for responses no less than seven days prior to the hearing.

(4) Service. The motion and separate notice of hearing must be served on any interested party, the case trustee and the United States Trustee.

(b) Nothing in this Local Rule shall abrogate the court's power to decide a motion for reconsideration without a hearing.