



# **Federal and Local Rule Changes**

**U. S. Bankruptcy Court  
Middle District of Georgia**

**December 1, 2018**

# Federal Rule Changes (1)

- **FRBP 3002.1 Notice Relating to Claims Secured by Security Interest in the Debtor's Principal Residence**
  - **Authorizes courts to modify HELOCs and provides flexibility for courts to specify alternate procedures for keeping the person who is to maintain payments apprised of the current payment amount; and**
  - **Acknowledges the right of the trustee, debtor, or party-in-interest to object to a change in the home mortgage payment amount, after receiving notice. Also allows parties to file a motion to determine the validity of the payment change; if not motion is filed by the day before the payment is to change, the change takes effect**
- **Amendments are intended to create flexibility regarding notice of payment change for HELOCs; create a procedure for objecting to a notice of payment change; and expand the category of parties who can seek a determination of fees, expenses, and charges that are owed at the end of the case.**

## Federal Rule Changes (2)

- **FRBP 5005 (a)(2) Electronic Filing and Signing**
  - **Electronic filing will be mandatory in all districts for entities represented by an attorney (**NO CHANGE FOR OUR DISTRICT**) unless an exception is granted for good cause**
  - **The rule gives discretion to each court to decide whether a pro se individual may or may not be required to file electronically**

## Federal Rule Changes (3)

- **FRBP 7004 Process; Service of Summons, Complaint is amended to **update the cross-reference to the FRCP 4**. FRBP 7004 incorporates by reference Rule 4(d)(1), which addresses the effect of a defendant's waiver of service. FRCP 4 was amended in 2007 and the old Rule 4(d)(1) was modified and renumbered as 4(d)(5)**
- **FRBP 7062 Stay of Proceedings to Enforce a Judgment is amended to retain the 14 day period for the automatic stay of judgment**
  - **An amendment to FRCP 62 lengthens the automatic stay of a judgment entered in the district court from 14 to 30 days to address a gap between the end of the judgment-stay period and the 28 –day time period for making certain post-judgment motions in civil practice. Because the deadline for post-judgment motions in bankruptcy is 14 days, the proposed amendment to FRBP 7062 maintains the 14 day duration of the automatic stay**

# Federal Rule Changes (4)

- **FRBP 8002 Time for filing Notice of Appeal and**
- **FRBP 8011 Filing and Service; Signature**
  - **Amendments are related to appeals by inmates**
- **FRBP 8006 Certifying a Direct Appeal to the Court of Appeals provides authority for the bankruptcy or district court to file a statement on the merits of a certification for direct review by the Court of Appeals when the certification is made jointly by all parties to the appeal**
- **FRBP 8007 Stay Pending Appeal; Bonds; Suspension of Proceedings and**
- **FRBP 8010 Completing and Transmitting the Record**
  - **Replace the phrase “supersedeas bond” with “bond or other security”**
- **FRBP 8013 Motions; Intervention and**
- **FRBP 8015 Form and Length of Briefs; Form of Appendices and Other Papers**
  - **Amended to define page limits and word limits**

## Local Rule Changes (1)

- Memoranda on all local rule changes disseminated to the bar on October 22 may be found at the court's website at [www.gamb.uscourts.gov](http://www.gamb.uscourts.gov) on the "News and Announcements" page titled "Compendium of Local Rule Changes for Public Commentary."
- Red line changes are in the memorandum for each local rule change and Chapter 13 Plan form change.

# Local Rule Changes (2)

- Chapter 13 Local Plan – Proposed Changes
  - Moves “Trustee Percentage Fee” statement from Part 2 to Part 4 “Treatment of Fees”
  - Standardizes language in 3.6 “Surrendered Collateral” to be in conformance with the National Plan as to termination of the stay for co-debtors
  - Provides specificity to 4.1 “Attorney Fees” and changes the block choices to the following:

**Old** 4.1. **Attorney Fees:** Attorney fees ordered pursuant to 11 U.S.C. § 507(a)(2) of \$\_\_\_\_\_ to be paid as follows: (SELECT ONE)

Pursuant to the current Administrative Order on Attorney Fee Awards

By another method as set out in Part 6 Nonstandard Provisions. Attorneys will be required to submit an itemization of their time to the Court.

**New** 4.1. **Attorney Fees:** Attorney fees ordered pursuant to 11 U.S.C. § 507(a)(2) of \_\_\_\_\_ to be paid as follows: (SELECT ONE)

Pursuant to the Single Set Fee option in the Administrative Order on Attorney Fees in Chapter 13 Cases.

Hourly billing: Attorneys are required to file an application for compensation with the Court, including an itemization of their time, in accordance with the Administrative Order on Attorney Fees in Chapter 13 Cases.

# Local Rule Changes (3)

- **LBR 3015-2 Modifications to Plan**
  - **Several redundancies with FRBP 3015(f) force a change to these local rules and pre-confirmation modification notices**
  - **Written objections to modifications were previously due to the court “...within 21 days of service of this notice” but FRBP 3015(f) says “...no later than 7 days before the date set for the rescheduled confirmation...”**
- **LBR 3015-3 Chapter 13 Confirmations**
  - **Almost all of this local rule is redundant with FRBP 3015 except “For purposes of § 1324(b), the date of the meeting of creditors shall be the date the meeting is concluded,” as this is not addressed in the federal rule.**



## Local Rule Changes (4)

- **LBR 5005-4 Electronic Filing**
  - **Our LBR 5005-4 is very duplicative of the federal rule and requires significant revision**
    - **Much of the local rule is procedural in nature and already covered in the Clerk's Instructions**
    - **Some aspects of the local rule will be retained, such as the attorney requirement to keep originally signed documents for 1 year and the court requirement to keep originally signed documents for 6 months**

# Local Rule Changes (5)

- **Minor changes to:**
  - **LBR 1007-1 Lists, Schedules, and Statements:** Eliminates requirement to list creditors alphabetically because the requirement is already in the Schedules
  - **Adds new LBR 1009-1 Amends to Lists and Schedules**
  - **LBR 3002.1-1:** Expands the category of parties who can seek a determination of fees, expenses, and charges that are owed at the end of a case
  - **LBR 4002-1 Debtor – Duties:** Eliminates duty to keep address current because FRBP 4002(a)(5) already requires this
  - **LBR 4003-2 Lien Avoidance:** Removes language duplicative with FRBP 4003(d)
  - **LBR 9006-1 Time Periods:** Abrogated because of language duplicative with FRBP 9006 (b) and (c)

# Local Rule Changes (6)

- **Administrative Order on Attorney's Fees in Chapter 13 Cases**
  - **Single Set Fee: Requires that Supplemental Fee Requests must assert in detail:**
    - **A significant matter that has arisen that could not reasonably have been anticipated at the commencement of the case;**
    - **That the debtor acknowledged the possibility of supplemental fee requests in his or her engagement agreement, or subsequently agreed to such supplemental fee; and**
    - **The hourly time entries and tasks performed, along with any expenses for which reimbursement is sought, for the significant matter for which the attorney is requesting a supplement (and not for the case as a whole)**

# Local Rule Changes (7)

- **Administrative Order on Attorney's Fees in Chapter 13 Cases (continued)**
  - **Fees Based on Itemized Applications:**
    - **Updates language referencing Code and Rule**
    - **Fees will not be awarded at confirmation unless a fee application has been filed and the objection period run without objections (or any objections overruled)**