



MEMORANDUM

To: Bankruptcy Practitioners in the Middle District of Georgia
From: Kyle George, Clerk of Court
Subject: Revision of LBR 3012-1 (b) Second Iteration

January 9, 2017

1. The revision of LBR 3012-1(b) generated a good suggestion during the commentary period and this memorandum supersedes the memorandum issued November 8, 2016.
2. LBR 3012-1 (b), Expert Witnesses on Valuation, contains an inconsistency in regards to when to file the statement disclosing the identity of any expert witness a party may use at trial or hearing to present evidence under F.R.Evid. 702, 703, or 705. In addition to the language correction, an attorney, during the commentary period, suggested that "...A better rule would simply require only service of the written appraisals upon the other side seven days prior to the hearing with a certificate of service being filed in the case." The judges of the court considered the suggestion and agreed with it, noting that Federal Rule of Civil Procedure 26(a)(2), which our local rule is designed to incorporate, requires only the production of written expert reports rather than their filing. Therefore, the judges issue the following change with the suggested "service only" requirement:

LBR 3012-1. Valuation of Collateral

(a) (Intentionally omitted)

(b) **Expert Witnesses on Valuation.** In all actions involving valuation of property by an expert witness, the party wishing to introduce the testimony of an expert witness shall serve on all parties in interest, so that it is received no later than seven days prior to the hearing or trial, a statement disclosing the identity of any expert witness it may use at trial or hearing to present evidence under F.R.Evid. 702, 703, or 705. Any such disclosure shall be accompanied by any written reports required under FRBP 7026 and F.R.Civ.P. 26(a)(2). A certificate of service shall be filed in the case indicating these documents were served on all parties in interest. This disclosure and any written reports required by FRBP 7026 and F.R.Civ.P. 26(a)(2) apply to contested matters, are due seven days prior to the hearing or trial, and are not subject to the 90-day disclosure deadline provided in FRBP 7026 and F.R.Civ.P. 26(a)(2)(D). The expert witness

shall give oral testimony at the time of a hearing or trial, but not testify on direct examination except with leave of Court. The party wishing to introduce the valuation of property by an expert witness may, at the time of a hearing or trial, proffer a summary of the appraisal. The witness shall be sworn for the purposes of cross-examination by the adverse parties. Objections to the qualifications of the expert witness shall be deemed preserved until cross-examination.

3. I would very much appreciate comments back to me via email no later than February 9, 2017. My email address is Kyle_George@gamb.uscourts.gov. Your assistance in this matter is greatly appreciated.