



MEMORANDUM

To: Bankruptcy Practitioners, Middle District of Georgia
From: Kyle George, Clerk of Court
Subject: Federal Rule Changes Effective December 1, 2017 October 10, 2017

1. The Federal Rules of Bankruptcy Procedure are being modified, as you know, on December 1, 2017. The rules affecting the Chapter 13 Plan have been the subject of most discussion regarding the rule changes. The local Chapter 13 Plan has already been issued for public comment. There are other rules that will change as well, both directly due to the changes to Federal Rules, as well as proposed changes to local rules that will be included with the Federal Rule changes. The purpose of this memorandum is to inform you of both these categories of changes and to solicit your opinion of those changes that are not specifically mandated by changes to the Federal Rules.

2. Changes to Local Rules that are directly caused by Federal Rule changes:

a. LBR 1015-1 (a) will change to conform with changes to FRBP 1015 which changes the term "husband and wife" to "spouses." This is in reaction to the U. S. Supreme Court's *Obergefell v. Hodges* ruling. The rule will be changed to:

**LBR 1015-1. Joint Administration/Consolidation (updated
December 1, 2017)**

(a) **Husband and Wife Cases Involving Two or More Related Debtors.** The estates of married debtors who file a joint petition shall be jointly administered without further order of the Court.

b. LBR 1017-2(c)'s title will change from "Trustee Fee Allowable Upon Dismissal" to "Fee Payable Upon Dismissal." When the rule was updated in April, 2016, we did not get the title in the Table of Contents corrected to match the title in the actual rule.

c. FRBP 2002(a) adds the time fixed for filing objections to confirmation of a Chapter 13 Plan. LBR 2002-1(a) will add this reference to those notices the court serves. The rule will be changed to:

LBR 2002-1. Notice to Creditors and Other Parties in Interest (updated subsection (g) on August 1, 2014 and subsection (a) on December 1, 2017)

(a) **Noticing of FRBP 2002(a) Matters.** The Clerk of Court shall serve the notices required by FRBP 2002(a)(1), 2002(a)(7), ~~and~~ 2002(a)(8), and 2002(a)(9). If additional creditors are added by amendment after the commencement of the case, the attorney for the debtor shall give the notice that is required by FRBP 2002(a)(1), FRBP 2002(a)(7), 2002(f)(4), and 2002(f)(5) to any creditor added. The party filing any motion or application shall serve any other notice required by FRBP 2002(a).

d. Under the updated FRBP 4003-2(d), lien avoidance procedures may also be effected by the filing of a Chapter 12 or Chapter 13 Plan in the manner provided by FRBP 7004. Our LBR 4003-2 Lien Avoidance rule is therefore changed to:

LBR 4003-2. Lien Avoidance (updated December 1, 2017)

Motions to avoid liens under § 522(f) shall be served with a notice to respond that complies with requirements of LBR 9004-1. The motion shall be served pursuant to LBR 9007-1 or LBR 2002-1(e). In Chapter 12 and Chapter 13 cases, the debtor may propose to avoid liens in the Chapter 12 or 13 plan. The plan shall specify the creditors by name whose liens are affected by such provisions in the plan and such provisions shall only apply to those liens that can be avoided under § 522(f). Any other liens other than those that are voidable under § 522(f) shall not be included in such lien avoidance provisions in the Chapter 13 plan.

3. The following proposed changes to Local Rules are NOT directly caused by Federal Rule changes and are therefore are submitted to the public for comment.

a. LBR 7056-1 currently does not have a time limit for filing replies to responses in adversary proceedings. The judges of this court would like to require that all replies in adversary proceedings be filed and served within 14 days of service of the response. Thus, LBR 7056-1 Summary Judgment will include a new sub-paragraph (c), which will state:

(c) Time Limit for Reply. (added December 1, 2017) Movant's counsel shall serve any desired reply brief, argument, or affidavit within fourteen (14) days after service of respondent's response, brief, or affidavit.

b. The Middle District of Georgia does not currently have a local rule that references Standards of Professional Conduct and Discipline by the Court. The proposed LBR 9010-3 refers

to the Middle District of Georgia District Court's Local Rule 83.2.1 applicable to the Bankruptcy court as well. The proposed rule is:

LBR 9010-3. Standards of Professional Conduct and Discipline by the Court (added December 1, 2017)

The Middle District of Georgia District Court Local Rule 83.2.1 is applicable to and governs all actions and proceedings in the Bankruptcy Court.

4. As to service requirements related to Chapter 13 Plans (detailed in a copy of the rule changes we submitted for your review in August, 2017), the judges of this court stress that it is the attorney's responsibility to comply with Federal Rules and the court will not institute rules redundant to Federal Rules. It is further stressed that it is not the court's responsibility to monitor attorney compliance with servicing requirements related to Chapter 13 Plans.

5. Finally, the court will become compliant with Administrative Office requirements to capture certain statistical data related to Chapter 13 Plans. To that end, a separate memorandum will be issued with instructions on how attorneys will assist the court with this requirement. Our aim is to levy the least burden on attorneys and attorneys will only be required to "check" certain boxes indicating which (if any) of four types of relief are sought in the Plan. Additionally, the Trustee's Summary attached to Orders of Confirmation will be modified to include this statistical data. Again, a separate memorandum on these subjects will be issued in the near future as procedures are finalized in the court and with the Trustees.

6. Any comments regarding the change to LBR 7056-1 and the proposed LBR 9010-3 can be submitted to me at kyle_george@gamb.uscourts.gov by November 10, 2017. Your assistance in this matter will be greatly appreciated.