

COMMENT: Various rules where the electronic service rule is to be included as a reference. Adds **and/or LBR 2002-1(e)**

LBR 1014-2. VENUE - CHANGE OF DIVISION

(a) **Cases Filed In Improper Division.** Any petition filed in an improper division may be transferred by the clerk to the proper division without notice or hearing.

(b) **Cases Filed In Proper Division.** Any debtor proposing to have a case administered in a division that would not be the proper venue as defined in LBR 1071-1 may file a motion requesting a change of divisional venue. The motion shall be served pursuant to LBR 9004-1 and LBR 9007-1 **and/or LBR 2002-1(e)**. The motion for change of divisional venue shall be filed contemporaneously with the commencement of the case.

NOTE: As amended January 2, 2007.

LBR 1017-1. CONVERSION - REQUEST FOR/ NOTICE OF

A debtor may convert a Chapter 7 case to a case under Chapter 11, 12, or 13, by filing of a motion with notice to all interested parties pursuant to LBR 9004-1 and LBR 9007-1 **and/or LBR 2002-1(e)**. If no objection is filed, the court will enter an order granting the conversion.

LBR 1017-2. DISMISSAL OR SUSPENSION - CASE OR PROCEEDINGS

(a) **Voluntary Dismissal of a Chapter 7 Case.**

1. A motion for voluntary dismissal of a Chapter 7 case must be served pursuant to LBR 9004-1 and LBR 9007-1 **and/or LBR 2002-1(e)**.
2. Prior to the voluntary dismissal of a Chapter 7 case, all administrative expenses must be paid.
3. If the Chapter 7 trustee does not consent in writing to the dismissal, the court will schedule a hearing.

(b) **Voluntary Dismissal of a Chapter 12 or Chapter 13 Case Previously Converted from Chapter 7.**

1. A motion by a debtor to dismiss a Chapter 12 or

Chapter 13 case that was previously converted from Chapter 7 must specify the grounds for the motion.

2. A motion for voluntary dismissal of a Chapter 13 case previously converted from a Chapter 7 case must be served pursuant to LBR 9004-1 and LBR 9007-1 **and/or LBR 2002-1(e)**.

3. If the Chapter 7 trustee originally appointed in the Chapter 7 case and the Chapter 13 trustee do not consent in writing to the dismissal, the court will schedule a hearing.

(c) Trustee Fee Allowable Upon Dismissal. If a Chapter 13 case is dismissed prior to confirmation of a Chapter 13 plan, or prior to any disbursement to creditors, the Chapter 13 trustee shall be allowed to retain up to \$100.00 as an administrative expense without further motion or order of the court.

(d) Voluntary Dismissal of Chapter 11 Case.

1. A debtor's motion to dismiss a Chapter 11 case shall specify the grounds for the motion.

2. The debtor shall obtain a hearing date for the motion and serve the motion for voluntary dismissal, along with a notice of hearing pursuant to LBR 9004-1 **and/or LBR 2002-1(e)**.

(e) Motion by Chapter 7 Trustee to Dismiss Case for Failure to Attend the Meeting of Creditors Held Pursuant to § 341 of the Code. A motion to dismiss a Chapter 7 case by the Chapter 7 trustee for failure of the debtor to appear at the meeting of creditors pursuant to § 341 of the Code shall be served on all entities required by FRBP 2002(a) and shall comply with LBR 9004-1 and LBR 9007-1 **and/or LBR 2002-1(e)**.

(f) Dismissal For Failure to File Documents and Information Required by 11 U.S.C. § 521 and FRBP 1007. If the

information and documents required by § 521 and FRBP 1007 are not filed upon the commencement of the case, the Clerk will notify the debtor and debtor's counsel that the missing information shall be filed within fifteen (15) days from the date of the notice. If the information and documents are not filed within the fifteen (15) days of the date of the notice, and the debtor has not requested a hearing during the 15 days, the bankruptcy case may be dismissed by the Court without further notice or hearing.

(g) Automatic Dismissal Pursuant to § 521: Motions to Dismiss for Insufficiency of Information Required by § 521.

No case shall be automatically dismissed without a written order of the court. The court shall deem the information required to be filed by § 521 and FRBP 1007 to be sufficient unless the Court has dismissed the case pursuant to LBR 1017-2(f), or a motion to dismiss is filed respecting the sufficiency of the information by the 45th day after the filing of the petition.

(h) Effect of Dismissal on Related Adversary Proceedings and Pending Motions. After dismissal of a bankruptcy case, any pending adversary proceedings will be dismissed by the court unless the court determines that it should retain jurisdiction. All pending motions will be deemed moot unless within 15 days of the order of dismissal the movant files a request that the motion remain active pending further order of the court.

NOTE: As amended January 2, 2007.

LBR 2015-3. TRUSTEES - REPORTS AND DISPOSITION OF RECORDS

A trustee or custodian in possession of books and records of the debtor may destroy, abandon, store or return to the debtor all or any portion of those books and records upon motion and notice served pursuant to LBR 9004-1 and LBR 9007-1 **and/or LBR 2002-1(e)**. Such notice shall include a description of the books and records.

LBR 2091-1. ATTORNEYS - WITHDRAWALS

No attorney or law firm, having filed a petition or other pleading on behalf of a debtor or having made an appearance for a creditor in a contested matter or adversary proceeding, shall thereafter abandon the case or adversary proceeding in which the appearance was made, or withdraw as counsel for any party therein, except by order of court obtained after giving notice pursuant to LBR 9004-1 and 9007-1 **and/or LBR 2002-1(e)**.

LBR 4003-1. EXEMPTIONS

(a) Schedule C. Schedule C shall contain the following:

1. A detailed list of all property or assets claimed as exempt by the debtor.

2. Each asset's value shall be stated in dollar amounts. If the value of any asset claimed to be exempt is not known, the debtor shall state the exemptible sum in dollars.

3. Exemptions will be limited to the dollar amount claimed as exempt even if the asset exempted is later discovered to have had a greater value than the amount listed in the schedules.

4. If exempting future proceeds of an unliquidated claim or of a cause of action, the debtor shall fully describe any such claim or cause of action.

(b) Notice of Amendment of Schedule C Exemptions and Deadline for Objections. If Schedule C is amended, notice to all parties in interest in the case shall be sent by the debtor; objections to the amended schedule shall be filed within 30 days from the date of service of such notice. The notice required by this rule shall substantially comply with the requirements of LBR 9004-1 and LBR 9007-1 and/or LBR 2002-1(e).

LBR 4003-2. LIEN AVOIDANCE

Motions to avoid liens under § 522(f) of the Code 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 and/or LBR 2002-1(e). In chapter 13 cases, debtor(s) may propose to avoid liens in the chapter 13 plan. The plan must specify the creditors whose liens are affected by such provisions in the plan.

NOTE: As amended September 1, 2000.

COMMENT: Technical amendment to insert date when (c) was abrogated.

LBR 1019-1. CONVERSION - PROCEDURE FOLLOWING

(a) Notice of Conversion. All conversions pursuant to §§ 1208(a) or 1307(a) of the Code, shall be in the form of a notice of conversion, filed by the debtor with the clerk of court. The notice shall include a certification that all parties in interest have been served. The effective date of

conversion shall be the date the notice of conversion is filed.

(b) Trustee Fee Allowable Upon Conversion. If a Chapter 13 case is converted prior to confirmation of a Chapter 13 plan, or prior to any disbursement to creditors, the Chapter 13 trustee shall be allowed to retain up to \$100.00 as an administrative expense without further motion or order of the court.

(c) Motion to Convert. *Abrogated by amendment dated May 16, 2007: See LBR 1017-1*

(d) Duty of Trustee Upon Conversion. Upon conversion of a case from Chapter 13 or Chapter 7 to any other chapter in title 11, the trustee shall file an account of all receipts and disbursements made in the case and a report on the administration of the case pursuant to § 704(9) of the Code. The trustee is discharged from the case 30 days after the filing of the required reports.

(e) Disposal of Pending Motions to Dismiss Upon Conversion. All pending motions to dismiss filed by the trustee prior to the conversion of a case will be deemed terminated as moot.

(f) Duty to Amend. Upon conversion of a case, the debtor shall, within 15 days of the effective date of conversion, file inventories, schedules, and statements of financial affairs as may be applicable, or amend such items to include any interest in property acquired since the entry of the order for relief in the original chapter. The amendments shall account for any material additions, deletions, or other changes in the debtor's assets or liabilities. The amendments shall add to the mailing matrix any post-petition, pre-conversion creditors. If no amendments or additional inventories, schedules, or statements are necessary, the debtor shall file a certificate to that effect within the 15-day period.

(g) Duty to Attend Scheduled Meeting of Creditors Held Pursuant to § 341 of the Code.

The filing of a motion to convert a Chapter 7 case shall not relieve the debtor and debtor's counsel from attending the meeting of creditors scheduled in the Chapter 7 case unless the motion has been granted prior to the meeting of creditors.

NOTE: As amended September 1, 2000, September 2, 2002 and May 16, 2007.

COMMENT: Technical amendment to correct the 4007(c) typo.

LBR 2002-1. NOTICE TO CREDITORS & OTHER PARTIES IN INTEREST

(a) Noticing of 20-Day Matters. The clerk of the Bankruptcy Court shall serve the notices required by FRBP 2002(a)(1) and 2002(a)(7). If additional creditors are added by amendment after the commencement of the case, the attorney for the debtor shall give the notices required by FRBP 2002(a)(1) and FRBP 2002(a)(7). The party filing any motion or application shall serve any other notice required by FRBP 2002(a).

(b) Noticing of 25-Day Matters. The party filing any motion or application shall serve any notices required by FRBP 2002(b) including notice under FRBP 2002(b)(2) for any creditor added to the case by amendment.

(c) Other Notices. The clerk of the Bankruptcy Court shall serve the notices required by FRBP 2002(e), 2002(f)(1), 2002(f)(2), 2002(f)(3), 2002(f)(4), 2002(f)(5), 2002(f)(6), 2002(o), 3002(c)(5), 3004, 4007(c), 4007(d), 7054(b), 8004, and 9022(a). The party filing any motion or application shall serve any other notice required by FRBP 2002 that is not otherwise specified in this or other sub-parts of this rule.

(d) Certificate of Service. The party filing any motion or application who is required by this rule to serve notices shall, upon completion of the service required by this rule, file a certificate of service with the court.

(e) Service.

1. Whenever a pleading or other paper is filed electronically, the electronic case filing system automatically generates a notice of electronic filing at the time of the docketing.

2. Participation in the court's electronic filing system by receipt of a login and password provided by the court shall constitute a request for service and notice by electronic means as provided under FRBP 9036. Participants in the electronic case filing system, by possessing a login and password from the court, agree to receive notice and service by electronic means through the notice of electronic filing for notices both from the court and from other system participants,

wherever located.

3. An attorney filing a pleading or other paper electronically resulting in a notice of electronic filing shall be deemed to have served the notice on participants of the court's system and such service will be considered the equivalent of service of the pleading or other paper by first class mail, postage pre-paid. For all remaining recipients of service or notice, the filing attorney shall serve the pleading or the paper upon those recipients in accordance with applicable bankruptcy rules.

4. The following language is recommended for participants of this electronic case filing system for certificate of service purposes:

"I hereby certify that the following parties have been served with the [designate the pleading or notice]. Those not served by electronic means by the court's electronic filing system have been served as follows:"

(f) Content of Notice. All notices except those notices served electronically pursuant to FRBP 9036 shall comply with the provisions of LBR 9004-1.

(g) Matters Requiring Expedited Settings. In all cases where a party files a pleading and seeks to expedite its consideration by the court, a separate motion for expedited hearing must be filed contemporaneously with the affected pleading, containing sufficient information on its face to permit the court to determine the necessity for expedited treatment. All motions to expedite shall have a separate certification regarding the request for emergency hearing and a proposed order sent to the court's ECF system . The certificate shall substantially comply with the form certificate found in the Clerk's Instructions.

(h) Returned Notices. Notices from the court as generated by and mailed out of the Bankruptcy Noticing Center including notice of any orders entered by the court shall contain a return address for the attorney representing the debtor. If the debtor is pro se, the notices will be returned to the clerk of court. If a notice is returned to debtor's attorney as undelivered, the debtor's attorney shall be responsible for determining the correct address for the addressee on each returned notice. The debtor's attorney shall re-serve the notice and certify such service by filing a certificate of service. At the time of the

certification, the debtor's attorney shall also provide the clerk with any corrected address. If corrected addresses are unavailable, counsel for debtor shall inform the clerk by filing an appropriate certification, and the clerk is then authorized to remove any such address from the mailing list. If the debtor is pro se, the clerk's office will attempt to resolve any undelivered notices. If unable to locate a corrected address for a returned notice, the clerk is authorized to remove any such address from the mailing list.

(i) Undeliverable Notices. If an insufficient creditor address is provided to the Court, which cannot be mailed by the National Bankruptcy Noticing Center, debtor's attorney will be notified that the address is insufficient and the Notice of the § 341(a) Meeting of Creditors for the particular creditor involved was undeliverable. The attorney shall immediately ascertain the correct address for such creditor and serve the Notice of the § 341(a) Meeting of Creditors at the correct address. The attorney shall file a Certification regarding service of such notices in a form specified in the Clerk's Instructions.

NOTE: As amended September 1, 2000, September 2, 2002 and January 2, 2007.

COMMENT: Reduces the number of allowable paper claims and specifies that attorneys for creditors must file all claims electronically regardless of the number

LBR 3001-1. CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL

(a) Interest in Proofs of Claim. All claims filed shall conform with § 502 of the Code and with the applicable Federal Rules of Bankruptcy Procedure, and may not include any claim for un-matured interest. Any creditor who calculates interest by using the "add on interest" method shall rebate interest from its claim by using the pro rata method.

(b) Electronic Filing of Claims. Entities that file ~~twenty~~ ~~(20)~~ **fifteen (15)** or more proofs of claim ~~in a calendar year~~ **during any 12 month period** must file the claims electronically **or obtain a Judicial Waiver**. If such entities file paper claims without a Judicial Waiver, the court will consider striking the documents. **Attorney's that file claims for themselves, their firms, or on behalf of any other entity must file all claims electronically regardless of number.**

(c) **Extension of Time to File.** Creditors added to a bankruptcy case by amendment later than 60 days before the original bar date shall be allowed 60 days from the date of the filing of the amendment to file a proof of claim.

(d) **Bar Date for Filing Claims in Chapter 11 Reorganization Cases.** For all bankruptcy petitions filed in Chapter 11 of the Code, the bar date for filing of proofs of claim or interest shall be 90 days from the first scheduled meeting of creditors. For cause shown, the court will consider extending the time to file proofs of claim upon the filing of an appropriate motion or request within the 90-day period.

NOTE: As amended January 2, 2007.

COMMENT: This is a totally new rule intended to deal with the garnishment issues in bankruptcy cases.

LBR 4071-1 AUTOMATIC STAY - VIOLATION OF

(a) **Duty of Creditors Upon Notice.** Upon notification that a bankruptcy has been commenced, all creditors shall take all appropriate steps to cease any and all collection efforts and shall take all necessary action to release garnishments that are in violation of 11 U.S.C. §362. For purposes of this rule, notice includes the official notice from the court of the commencement of a bankruptcy case or any other notice provided to the creditor by the debtor or debtor's attorney which reasonably alerts the creditor to the existence of a bankruptcy.

(b) **Motions to Terminate Garnishment.** After the commencement of a bankruptcy, the debtor may seek termination of any pending garnishment by motion which shall set out a showing that:

- 1) The debtor and/or debtor's counsel have contacted the judgment creditor seeking voluntary release of the garnishment;
- 2) That the garnishment and the withholding of any funds from the garnishment are in violation of 11 U.S.C. §362, and
- 3) That the motion to terminate the garnishment has been served on the judgment creditor, the court in which the garnishment is pending, and any entity who has been served as garnishee.

The motion shall include a notice which shall provide 15 days for a response and must be served pursuant to LBR 9004-1 and LBR 9007-1. If no objection is filed to the motion within the 15

days provided, the court may enter an order directing any entity holding garnished funds to release the funds and directing that the garnishment pending shall be terminated.

LBR 5005-4. ELECTRONIC FILING

(a) Filing and Transmittal of Pleadings, Complaints, Petitions, and Other Documents by Electronic Means Utilizing the Court's Electronic Case Filing System.

The court will accept for filing documents submitted, signed or verified by electronic means that comply with the procedures established by the court and published by the clerk. ~~Electronic transmission~~ filing of a document to in the electronic case filing system consistent with these rules, ~~together with the transmission of a notice of electronic filing from the court,~~ constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules of this court, and constitutes entry of the document on the docket kept by the clerk under FRBP 5003. Filing is complete upon the creation of a notice of electronic filing and said notice of electronic filing shall be the filer's receipt that the document has been officially filed.

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. In the case of documents first filed in paper form, they will be converted to electronic form and the electronic document will be the official document. Documents filed electronically are deemed filed at the date and time stated on the notice of electronic filing from the court and the filing date of any paper filings is the date that the paper is received.

Filing a document electronically does not alter the filing deadline for that document. Electronic filings must be completed in the court's system before midnight in order to be considered timely filed that day.

All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under FRBP 5003 and FRBP 9021. All signed orders will be filed

electronically by the court or court personnel. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

The user login and password required to submit documents to the electronic case filing system serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of FRBP 9011, the Federal Rules of Bankruptcy Procedure, the Local Rules of this court, and any other purpose for which a signature is required in connection with the proceedings before the court.

Attorneys admitted to the Bar of this court (including those admitted *pro hac vice*), United States Trustees and their assistants, private trustees, and others as the court deems appropriate, **must** register as Filing Users of the court's electronic case filing system and must file all documents by use of the court's electronic filing system. Registration is in a form prescribed by the clerk. A Judicial Waiver may be requested by any attorney. The procedure for Judicial Waiver can be found in the Clerks Instructions.

A party to a pending action or an individual or entity that files documents with the court frequently as determined by the clerk and who is not represented by an attorney may register as a Filing User in the electronic case filing system. Registration will be in the form prescribed by the clerk.

Registration of the Filing User constitutes:

(1) Waiver of the right to receive notice by first class mail and consent to receive notice electronically; and

(2) Waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under FRBP 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under FRBP 9022.

(b) Receipt of Facsimile Filings. Subject to requirements of this rule, a pleading, complaint, petition or other document to be filed with the court may be accepted as timely filed by transmission to the court through a

facsimile machine. No facsimile pleading or document will be accepted or deemed filed without prior approval.

(c) **Approval of Facsimile.** The pleading, complaint, petition or other document to be filed must be authorized to be received for filing by a judge of this court, the clerk of the court, or by the clerk's designee. Such authorization must be obtained prior to the sending of the document and must be based on a showing of time critical need and that the filer is unable to gain access to the court's Electronic Case Filing System.

(d) **Procedure for Filing Facsimile Documents.** The facsimile copy sent to the court must include (1) a cover sheet that includes a brief statement of the time critical status of the pleading, complaint, petition or other document, (2) the reason the original cannot be filed timely and, (3) the identification of the court individual authorizing its receipt. This cover sheet will be filed with the pleading in the electronic case file. The party sending the facsimile document is solely responsible for insuring that it is fully and accurately received. The docketing of the document will reflect that it is a facsimile document, the name of the court employee who authorized the receipt of the document and the name of the attorney or other individual who sent the document.

(e) **Conversion of the Faxed Documents.** The pleading, complaint, petition or other document submitted by facsimile will be converted to an electronic image by the court and the electronic image will be the official record of the document.

NOTE: As amended January 2, 2007.

LBR 5075-1 CLERK'S AUTHORITY TO REDACT INFORMATION ON FILE WITH THE COURT

(a) **Redaction by the Clerk**

Any entity wishing to redact information on file with the court can request such redaction by filing a request. Such request shall specify the document containing the information and a contention that the information is one or more of the following types:

- (i) Social Security numbers
- (ii) Financial account numbers
- (iii) Dates of birth or names of minor children

Upon filing such request, the clerk shall remove the subject document from the public docket. The party requesting redaction shall file with the court a replacement document with all necessary redaction properly executed by the filer within 10 days from the date of the request. If no replacement document is filed, the clerk will place the original document back on the public docket.

(b) Redaction by the court

Any other information to be redacted other than that contained in paragraph (a) above shall only be redacted by order of the court and after motion and hearing.
