



MEMORANDUM

To: Bankruptcy Practitioners in the Middle District of Georgia
From: Kyle George, Clerk of Court, U. S. Bankruptcy Court, Middle District of Georgia
Subject: **Summary of December 1, 2019 Rule Changes and Other Information**
Date: October 21, 2019 (**Amended**)

1. The purpose of this memorandum is to inform the Bankruptcy Bar in the Middle District of Georgia of upcoming changes to Federal Code, Federal Bankruptcy Rules, Local Rules, and to inform you on various other initiatives/actions that will be taken by the court in the coming months. The Calendar Year 2020 Circuit Court schedule is also included in this memo.

2. Federal Code changes:

a. **Small Business Reorganization Act of 2019.** The President signed into law the Small Business Reorganization Act of 2019, which will go into effect on February 19, 2020. Because of the compacted implementation schedule, the Federal Bankruptcy Rules Committee has issued for public commentary various changes to the Federal Rules of Bankruptcy Procedure that have not followed the normal three-year rule-making process. As stated in a message released October 16, 2019, the Interim Bankruptcy Rules are available for public commentary on the Administrative Office of the US Courts web site at <https://www.uscourts.gov/rules-policies/proposed-amendments-published-public-comment>. The public commentary period runs from October 16, 2019 to November 13, 2019. The web page also includes instructions on how to submit and review comments about the Interim Rules.

b. **Honoring American Veterans in Extreme Need (HAVEN) Act.** The HAVEN Act brings veteran's disability benefits into par with Social Security disability benefits in connection with the calculation of current monthly income under the Bankruptcy Code.

c. **Family Farmer Relief Act of 2019.** This act raises debt limit for Chapter 12 eligibility to \$10,000,000.

d. **National Guard and Reservists Debt Relief Extension Act.** This act creates an exception to the Chapter 7 means test's presumption of abuse for members of the National Guard and Reserve

who, after September 11, 2001, served on active duty or in a homeland defense activity for at least 90 days.

3. Amendments to the Federal Rules of Bankruptcy Procedure which go into effect on December 1, 2019 are:

a. **FRBP 4001(c) Obtaining Credit.** Rule 4001(c) sets forth the requirements for obtaining post-petition credit. This section will be amended so that it no longer applies to Chapter 13 cases. The judges of this Court will continue to grant “comfort” orders as they have done in the past, even though the rule no longer applies to Chapter 13 cases.

b. **FRBP 6007(b) Abandonment or Disposition of Property.** This rule is being amended to designate the parties to be served with a motion to compel the trustee to abandon property under 11 U.S.C. § 554(b). Changes also make the rule consistent with Rule 6007(a) (dealing with abandonment by the trustee or debtor in possession). The amendment of this rule makes our Local Bankruptcy Rule (LBR) 6007-1 largely redundant and the local rule will be amended accordingly (see below for more information).

c. **FRBP 9036 Notice by Electronic Transmission.** This rule is being amended to allow clerks and parties to provide notices or to serve documents (other than those in Rule 7004) through the court’s electronic filing system on registered users of that system. The amendments would also allow service or noticing on any person by any electronic means so long as the person consented in writing to receive notices or service electronically. The service or notice would be complete upon filing or sending, but it would not be effective if either the filer or the sender learns it was not received. *There are no changes to our current procedures.* The rule is catching up, on a national level, to what we’ve been doing for years.

d. **FRBP 9037 Privacy Protection for Filings Made with the Court.** Again, the national rule catches up to what we have been doing for years via LBR 5075-1. The Federal rule adds a new subdivision (h) to address procedures (filing motion to redact, attaching proposed redacted document, including docket or proof of claim number, and serve motion and attachment on debtor, debtor’s attorney, trustee, filer, and any individual whose personal identifier is being redacted) for redacting personal identifiers in previously filed documents not in compliance with Rule 9037(a).

e. You can review all the Federal Rule changes at the Administrative Office of the United States’ website at <https://www.uscourts.gov/rules-policies/pending-rules-and-forms-amendments>.

4. Local Rule changes that are planned to go into effect either before or on December 1, 2019:

a. **LBR 1002-1 Debtor’s Statement of Assistance.** This new rule requires **pro se** debtors to affirmatively state they have received (or not) assistance from a bankruptcy petition preparer in the filing of their case. The document, provided by the Clerk’s office, will be filed with the petition or

shortly thereafter if not filed with the petition and will be a separate docket entry. **However, because this form is not a product of the code or rules, the case will not be automatically dismissed if the document is not filed.**

b. **LBR 1017-2(i) Effect of Dismissal on Future Filings.** The rule will be amended to specify that proposed orders should not include language saying that an order of dismissal is “with prejudice” as to future filings, unless the accompanying motion specifically addresses the prejudicial effect of the relief requested. The proposed amendment will be published for public commentary no later than November 1, 2019.

c. **LBR 6007-1 Abandonment.** As noted above, FRBP 6007(b) will be amended to designate the parties to be served with a Motion to Compel the Trustee to abandon property under § 554(b). The amendment makes our Local Rule 6007-1 largely redundant and will be amended accordingly. The proposed amendment will be published for public commentary no later than November 1, 2019.

d. **Change (correcting a typographical error) to the Local Chapter 13 Plan.** A typographical error was noted on our Local Chapter 13 Plan where a numbered paragraph is referenced that is no longer part of the Plan. Section 5.2 (a) of the Plan, General Unsecured Creditors, allows a percentage of dividends to be paid “...for the applicable commitment period as indicated in Part 2 Section 2.4.” In the revision of the Plan effective December 1, 2018, Section 2 of the Plan was amended, which caused a renumbering of the subparagraphs in Section 2. The corrected phrase should be “...for the applicable commitment period as indicated in Part 2 Section 2.3.” An Administrative Order correcting the change has been issued by the Court and is available on our Administrative Orders page. The updated forms have been placed on our Forms page. **No changes to the Chapter 13 Plan are contemplated for the annual December 1 rule changes.**

5. Procedural changes in court operations:

a. **Motion to Compel Chapter 7 Trustee to Abandon Estate Property.** This is a new category which we will place on our “Negative Notice” list. We have carved out a subcategory to the “Motion to Compel” (which is on our “Hearing Required” list) at the request of the judges of the Court. The motion will require a 21-day notice period and attorneys will use the notice form contained in LBR 9004-1(c)(5)(B).

b. **Motion to Compel (except for Motions to Compel Chapter 7 Trustee to Abandon Estate Property).** The “Motion to Compel” was placed on the “Hearing Required list in February, 2019. With the addition of the sub-category described in paragraph 5(a) above, we are retitling the “Motion to Compel” to “**Motion to Compel (except for Motions to Compel Chapter 7 Trustee to Abandon Estate Property).**” The motion will remain on the “Hearing Required” list.

c. **Motion for Continuation of Utility Service (Section 366 Motion).** This motion will be placed on our “Hearing Required” list. Because of the time-sensitive nature of the motion, attorneys will not automatically receive hearing dates in the Court Hearing Scheduler program. When the radio button for this motion is clicked, it will direct the attorney to contact the courtroom deputy to set up a hearing. Attorneys will be required to use the notice form contained in LBR 9004-1(c)(6).

6. Projects and Other Useful Information:

a. **Unclaimed Funds Project.** Our court will participate in the national effort to streamline the process for entities to claim unclaimed funds. Over the next few months you will be informed of the new forms, procedures, and guidance on this project.

b. **Clerk’s Instructions Revisions.** We have recently combined both the Clerk’s Instructions and the Bankruptcy Reference Manual to make one cohesive reference document for bankruptcy practitioners. The revised Clerk’s Instructions will be published to our website prior to December 1, 2019. There are no substantive changes to the Clerk’s Instructions, other than folding in the Bankruptcy Reference Manual.

c. **Final Disposition Calendar Procedures.** Most of the attorneys who practice in our district are familiar with the “final disposition calendar” procedures. The final disposition calendar process was instituted several years ago and is the means by which the court (and attorneys) ensures that proposed orders do not get “stale” or dismissed for lack of prosecution. Additionally, the process prevents court staff from having to constantly contact attorneys seeking proposed orders or orders that were required to be modified after a hearing. These procedures will be included in the newly revised Clerk’s Instructions.

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7. Scheduled circuit court dates for calendar year 2020. All dates are Tuesday through Thursday unless otherwise noted:

Albany	Athens	Valdosta
January 7 – 9	January 14 – 16	January 21 – 23
February 4 – 6	February 18 – 20	February 25 – 27
March 10 – 12	March 24 – 26	March 24 – 26
April 14 – 16	April 21 – 23	April 28 – 30
May 12 – 14	May 27 – 28 (Wed - Thurs)	May 19 – 21
June 16 – 18	June 9 – 11	June 22 – 24 (Mon – Wed)
July 14 – 16	July 21 – 23	July 21 – 23
August 4 – 6	August 25 – 27	August 25 – 27
September 1 – 3	September 22 – 23 (Tues – Wed)	September 15 – 17
October 6 – 8	October 20 – 22	October 20 – 22
November 3 – 5	November 23 – 25 (Mon – Wed)	November 17 - 19
December 1 – 3	December 21 – 23 (Mon – Wed)	December 15 – 17
January 5 – 7, 2021	January 19 – 21, 2021	January 19 – 21, 2021

8. Key Dates to Remember:

- a. **Southeastern Bankruptcy Law Institute**, March 19 – 21, 2020 in Atlanta.
- b. Coastal Bankruptcy Law Institute, which is typically held in middle April in Savannah.
- c. Eleventh Circuit Judicial Conference, May 6 – 9 in Atlanta.
- d. Middle Georgia Bankruptcy Law Institute, September 25 in Macon.

9. If there are any questions, please contact me at 478-752-3506 or via email at Kyle_George@gamb.uscourts.gov.