LOCAL RULES

of the

UNITED STATES BANKRUPTCY COURT

for the

NORTHERN DISTRICT OF INDIANA

December 8, 2017

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Date of Amendment	*Title of Document*	*Amended Rule Numbers*
February 2, 2001	General Order 2001-01	B-3007-1
February 23, 2001	Amended General Order 99-1	Becomes Rule B-2002-2
April 30, 2001	Order Amending Local Rules	B-1007-5; B-5005-1; B-7007-1; B-7026-1; B-7026-2; B-7037-1; B-9010-1; B-9013-1; B-9014-2
December 7, 2001	Order Amending Local Rules	B-6006-1; B-9013-1
August 27, 2002	General Order 2002-01	B-5005-1; B-5005-2
September 24, 2002	Second Order Amending Local Bankruptcy Rule B-5005-1	B-5005-1
April 28, 2003	General Order 2003-01	B-1007-2; B-2002-2; B-2015-2; B-5005-2
April 28, 2003	General Order 2003-02	B-5005-2
October 28, 2003	Order Amending Local Bankruptcy Rules	B-5005-1; B-5005-2; B-9011-1; B-9013-4
January 15, 2004	Order Amending Local Bankruptcy Rules	B-5005-1; B-5005-2; B-5005-3
June 23, 2004	Order Amending Local Bankruptcy Rules	B-2002-1; B-3006-1; B-9014-2
February 15, 2005	Order Amending Local Bankruptcy Rules	B-2002-2; B-2014-2; B-4004-1; B-9019-1
April 28, 2005	General Order 2005-01	B-2002-2(a); B-5005-1; B-9014-2
September 22, 2005	General Order 2005-02	B-1009-1(a) & (c)
October 14, 2005	Order Adopting Interim Bankruptcy Rules and Amending Local Bankruptcy Rules	B-1002-1(a)(2); B-2002-2(a)(15) and (a)(16); B-4008-1
July 21, 2006	Order Amending Local Bankruptcy Rules	B-9006-1(a); B-9014-2
December 22, 2006	Order Amending Local Bankruptcy Rules	B-5005-2; B-9070-1
March 1, 2007	Order Amending Local Bankruptcy Rules	B-9010-2(a)

August 31, 2007	Order Amending Local Bankruptcy Rules	B-2002-2(b)(1)(B) B-3017.1-1
November 30, 2007	Order Amending Local Bankruptcy Rules	B-1002-1
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November 30, 2007	Order Amending Local Bankruptcy Rules	B-5005-3(b)
April 25, 2008	Order Amending Local Bankruptcy Rules	B-4004-2
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August 29, 2008	Order Amending Local Bankruptcy Rules	B-9010-1
May 11, 2009	Order Amending Local Bankruptcy Rules	B-2002-2(a)(19)
May 11, 2009	Order Amending Local Bankruptcy Rules	B-4001-1
May 11, 2009	Order Amending Local Bankruptcy Rules	B-4004-3 and B-2002-2(a)(25)
September 11, 2009	Order Amending Local Bankruptcy Rules	B-4003-1; B-6007-1; B-7037-1
November 18, 2009	Order Amending Local Bankruptcy Rules	B-1007-3(a); B-1007-3(c); B-1007-4(b); B-2002-2(b)(1); B-2002-2(b)(2); B-2002-2(d); B-2014-2(b)(2); B-2015-1(a); B-3006-1(a); B-3018-1(b); B-3020-1(a); B-3020-1(b); B-4001-1(b)(3); B-4004-3(c); B-5071-1(b); B-7007-1(a); B-7016-1(d); B-9010-2(e)(2); B-9010-2(e)(3); B-9013-4(d); B-9014-1(b)
December 1, 2009	Order Amending Local Bankruptcy Rules	B-4004-2
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October 31, 2011	Order Amending Local Bankruptcy Rules	B-1009-1
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August 31, 2012	Order Amending Local Bankruptcy Rules	B-2002-2; B-6004-1
December 18, 2012	Order Amending Local Bankruptcy Rules	B-7056-1
August 20, 2013	Order Amending Local Bankruptcy Rule	B-5005-1
August 20, 2013	Order Amending Local Bankruptcy Rule	B-9018-1
October 7, 2014	Order Amending Local Bankruptcy Rule	B-2002-2
November 6, 2014	Technical revision to update page numbering	
December 11, 2014	Technical revision to formatting	
July 7, 2015	Order Amending Local Bankruptcy Rules	B-7056-1; B-9013-4
July 7, 2015	Order Making Technical Amendments to Local Bankruptcy Rules	B-1002-1; B-2002-2; B-2002-3; B-3007-1; B-5005-1
July 13, 2015	Technical revision to update table of contents	
October 5, 2015	Order Amending Local Bankruptcy Rules	B-2002-2
December 1, 2015	Order Making Technical Amendments to Local Bankruptcy Rules	B-1002-1; B-1009-1: B-3002-1
November 2, 2016	Order Amending Local Bankruptcy Rules	B-4003-1; B-4008-3; B-9010-2
December 8, 2017	Technical revision to include pre-1994 commentary	
December 8, 2017	Order Amending Local Bankruptcy Rules	B-7016-1; B-7054-1

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B-1001-1
Title and Scope of Rules

(a) These rules shall be known as the Local Rules of the United States Bankruptcy Court for the Northern District of Indiana. They may be cited as "N.D. Ind. L.B.R. B- ."

(b) These rules become effective on January 1, 1994.

(c) These rules shall govern all cases and proceedings referred to bankruptcy judges pursuant to N.D. Ind. L.R. 200-1.

(d) These rules supersede all previous rules and general orders governing practice or procedure promulgated by this court. They shall apply to all proceedings initiated in this court after they take effect and to all cases and proceedings pending at the time they take effect.

(e) In a case, the court, upon its own motion or upon the motion of any party in interest, may suspend or modify any of these rules if the interests of justice so require.

HISTORICAL AND REGULATORY NOTES

This rule was amended for technical numbering revisions pursuant to Order Amending Local Bankruptcy Rules dated May 21, 2012.

B-1002-1
Minimum Filing Requirements to Commence a Case

(a) The minimum filing requirements necessary to initiate a voluntary case under title 11 of the United States Code are set forth in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Official Forms. At the time of the adoption of these rules they require:

(1) The petition and, if the debtor has issued publicly-traded securities and is filing for relief under Chapter 11, Official Form 201A to the voluntary petition (11 U.S.C. § 301, Fed. R. Bankr. P. 1002 and Official Form 101/201);

(2) The appropriate filing fee, or, in an individual case, an application to either pay the filing fee in installments or, if the case is filed under Chapter 7, to waive that fee. (Fed. R. Bankr. P. 1006);

(3) Any miscellaneous fee applicable to the case (28 U.S.C. § 1930(b) and Bankruptcy Court Fee Schedule);

(4) A list of all creditors or a schedule of liabilities or a motion, together with a notice of the motion, directed to the United States trustee, for an extension of time to file the required list (Fed. R. Bankr. P. 1007(a)); and

(5) In cases under Chapter 9 and Chapter 11 a list of the creditors holding the twenty largest unsecured claims (Fed. R. Bankr. P. 1007(d)).

(b) The clerk may refuse to accept any case for filing which does not comply with the minimum filing requirements established by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Official Forms in effect at the time the case is presented for filing. If such a case is accepted for filing, it may be stricken by the court, *sua sponte*, without notice.

(c) A case that has been terminated pursuant to the provisions of this rule shall not constitute a case for the purpose of determining the creation, existence, or duration of the automatic stay as a result of any future petition that might be filed concerning the debtor, including § 362(c)(3), (c)(4), and (n).

Commentary (1994)

This rule is based upon the general orders the court has issued concerning the consequences of an insufficient filing, in order to make those consequences publicly known.

HISTORICAL AND REGULATORY NOTES

By Order Making Technical Amendments to Local Bankruptcy Rules dated November 25, 2015, this rule was amended to change the reference to "exhibit 'A'" to "Official Form 201A"; and to change the reference from "Official Form 1" to "Official Form 101/201."

By Order Making Technical Amendments to Local Bankruptcy Rules dated July 7, 2015, this rule was amended to delete the reference to Interim Bankruptcy Rule 1006(c).

Pursuant to Order Amending Local Bankruptcy Rules dated November 30, 2007, paragraph (c) was added to this rule.

Pursuant to Order Adopting Interim Bankruptcy Rules and Amending Local Bankruptcy Rules dated October 14, 2005, this rule was revised to better implement the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

B-1007-1
Matrix of Creditors

(a) The schedules and any list of creditors required by Rule 1007 of the Federal Rules of Bankruptcy Procedure shall be supplemented by a matrix of creditors and parties in interest, which shall be filed at the same time as the list required by Fed. R. Bankr. P. 1007(a).

(b) The matrix shall be prepared in such a form and manner as may, from time to time, be prescribed by the clerk and shall be verified by the debtor as to its correctness.

(c) It shall be the responsibility of the debtor to ensure that the matrix is complete and accurate. The clerk shall not be required to compare the names and addresses shown on the matrix with those shown on the schedules or other lists.

(d) In the event a petition is filed without a schedule of liabilities, a matrix prepared in accordance with this rule will serve as the list required by Fed. R. Bankr. P. 1007(a).

HISTORICAL AND REGULATORY NOTES

This rule is derived from Rule B-203(b) as amended on February 1, 1991.

B-1007-2
Statement Concerning Status of Filing of Tax Returns and Tax Review Proceedings

HISTORICAL AND REGULATORY NOTES

Abrogated April 28, 2003, by General Order 2003-01.

B-1007-3
Statement of Insider Compensation

(a) In any case under Chapter 11 or 12 in which the debtor is not a natural person, within fourteen (14) days after the order for relief the debtor shall file a "Statement of Insider Compensation." This statement shall be verified and shall disclose:

(1) the identity and duties of any insider who received compensation from the debtor or an affiliate of the debtor during the year prior to the order for relief and the amount, terms, and conditions of such compensation;

(2) whether the amount, terms, or conditions of any insider's compensation have been altered or changed, in any way, during the year prior to the case and, if so, the date and the precise nature of any such alteration or change; and

(3) the identity of any insider who will be compensated during the case, the duties such insider is expected to be performing and the amount, terms, and conditions of any compensation.

(b) The debtor shall serve a copy of the "Statement of Insider Compensation" upon the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d) and shall file proof thereof.

(c) As to any insider hired or employed by the debtor after the date of the petition, the debtor shall file and serve, in accordance with paragraph (b), a supplemental statement, disclosing the information required by paragraph (a)(3), within fourteen (14) days after such employment.

(d) The debtor shall not compensate any insider until the statements required by this rule have been filed.

(e) The court may, upon its own initiative or the motion of any party in interest, review the reasonableness of the amount, terms, and conditions of any compensation received by any insider during the administration of the estate, following notice and hearing.

(f) As used in this rule, the term "insider" is as defined in § 101 of title 11 of the United States Code.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-1007-4
Schedule of Income and Expenditures for Corporations and Partnerships

(a) A corporation or a partnership will not be required to file a schedule of income and expenditures unless ordered to do so.

(b) Upon the request of a trustee or the United States trustee and without notice or hearing, a corporation or a partnership will be ordered to file a schedule of income and expenditures within fourteen (14) days.

Commentary (1994)

Although both §521(a) and Bankruptcy Rule 1007(b)(1) require all debtors to file a schedule of income and expenses, there is no official form for this information unless the debtor is an individual. Bankruptcy Rule 1007(b)(1) authorizes the court to excuse the filing of certain schedules and statements. Paragraph (a) of the proposed rule is based upon this authority. More often than not, a Chapter 7 corporation or partnership is already out of business and would have no income or expenses to disclose. For cases under Chapter 11 and 12, much the same type of information will be available through the debtor's operating reports. Should it seem to be necessary or appropriate for the administration of the estate, paragraph (b) provides an expeditious process by which either a Trustee or the United States Trustee can request the information. The fifteen day time frame for filing the schedules is taken from Bankruptcy Rule 1007(c).

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-1007-5
Scheduling Federal and State Governmental Units

(a) If any federal or state governmental unit, department, agency or instrumentality is a creditor of the debtor or otherwise a party in interest, the schedules, statements, matrix/lists of creditors, or other document required to be filed with the court in which such indebtedness or interest is required to be disclosed shall identify the department, agency or instrumentality of the federal or state governmental unit through which the debtor became indebted, or which otherwise has an interest in the case.

(b) The address of any federal or state governmental unit, department, agency or instrumentality required to be stated in any schedule, statement of affairs, matrix/list of creditors or other document required to be filed with the court shall be the address for that governmental unit, department, agency or instrumentality as designated in the list maintained pursuant to Rule 5003(e) of the Federal Rules of Bankruptcy Procedure.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Rules dated April 30, 2001, this rule was revised effective June 4, 2001, to apply to both Federal and State agencies.

B-1009-1
Amendments

(a) (1) An amendment to a voluntary petition, list, schedule or statement shall be made in accordance with Fed. R. Bankr. P. 1009 and shall be accompanied by a separate notice of amendment which shall identify the document amended, the general purpose of the amendment, and state the information added, deleted or changed by the amendment. Each amendment shall be verified and signed as in the original document. No amendments by interlineation shall be permitted. Except by leave of court, the entire document which the amendments affect shall be reproduced. In order to accommodate the possibility of multiple amendments, each amendment shall be numerically identified.

(2) To correct the address of a scheduled creditor, the BNC Bypass Notice may be used. The BNC Bypass Notice may not be used to add a previously unscheduled creditor.

(b) If a schedule of creditors (Schedule D or E/F) is amended to add previously unscheduled creditors, the amendment shall also be accompanied by a supplement to the matrix of creditors. This supplement shall contain the name and address of the added creditor(s).

(c) Debtor shall serve a copy of the notice of amendment upon the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), and all entities affected thereby, including any added creditors, and file proof thereof along with the amendment.

HISTORICAL AND REGULATORY NOTES

By Order Making Technical Amendments to Local Bankruptcy Rules dated November 25, 2015, this rule was amended to change the phrase "Schedule D, E, or F" to "Schedule D or E/F."

By Order Amending Local Bankruptcy Rules dated October 31, 2011, this rule was amended to allow the use of the BNC Bypass Notice to correct the address of a previously scheduled creditor.

By General Order2005-02 dated September 22, 2005, this rule was revised to change the way in which changed or added information is indicated when a document is amended.

B-1017-1
Dismissals for Failure to File Required Documents

(a) If an individual debtor in a voluntary case under Chapter 7 or Chapter 13 fails to file documents containing the information required by 11 U.S.C. § 521(a)(1)(A) and (B)(i-iii, v, vi) within 45 days following the date of the petition, unless that deadline has been extended or the trustee files an appropriate motion, the court will issue a notice reflecting the dismissal of the case pursuant to § 521(i)(1) on the 46th day after the date of the petition or as soon thereafter as may be practicable. A debtor or other party in interest who contends such a notice was issued in error may seek relief under Rule 9024(a) of the Federal Rules of Bankruptcy Procedure. In addition to the requirements of Local Bankruptcy Rule B-9023-1, any such motion shall:

(1) Specifically indicate where in the record documents containing the required information may be found;

(2) Describe how those documents provide all the information required; and

(3) State the date upon which they were filed.

(b) The absence of a notice reflecting dismissal of the case pursuant to § 521(i)(1) indicates that the court believes the debtor has filed the required information, and constitutes a presumption that such a dismissal has not occurred and that the case may continue to proceed. Notwithstanding the absence of such a notice, a party in interest that contends § 521(i)(1) requires dismissal of the case may file a motion for an order dismissing the case pursuant to § 521(i)(2). Such a motion must:

(1) Be filed electronically;

(2) Refer to § 521(i)(2) in both the title and the docket text entered by the movant; and

(3) Be accompanied by an affidavit from movant's counsel.

A motion which fails to so refer to § 521(i)(2) will be deemed to be a motion to dismiss for some other cause, a waiver of the court's need to act within seven days, and will be set for a hearing on notice to all creditors and parties in interest.

(c) The affidavit accompanying the motion for an order dismissing the case pursuant to § 521 (i)(2) must:

(1) Indicate that counsel has personally reviewed the docket and every page of every document filed in the case;

(2) Specifically identify what information required by § 521(a)(1)(A) and (B)(i-iii, v, vi) the debtor has failed to file;

(3) Specifically describe how the information that has been filed by the debtor does not provide what is required; and

(4) State whether the debtor has sought an extension of time to file the required documents and whether the trustee has filed a motion asking the court to decline to dismiss the case.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated December 16, 2009, this new rule was adopted effective January 1, 2010. General Order 2006-01 is vacated effective with the adoption of this new rule.

B-1073-1
Assignment of Cases

(a) The administrative orders of the court may provide for the assignment of cases and proceedings to the various divisions within this district.

(b) Judges may be assigned to a division of this court, permanently and for trial sessions, as the court may from time to time order.

(c) The judge to whom a case has been assigned has the primary responsibility with respect to all proceedings in this district arising in, under, or related to that case.

(d) All judges have concurrent jurisdiction and may act in any matter in the absence of, or with the consent of, the judge to whom the case or proceeding is assigned.

B-2002-1
Treatment of Returned Notices

(a) Envelopes containing notices of the § 341 meeting will bear the return address of debtor's counsel or the debtor if *pro se*. Debtor or debtor's counsel shall retain all such notices returned by the postal service for no less than one hundred eighty (180) days after the case is closed or dismissed.

(b) As to any notice which is not served by the clerk, the party responsible for serving the notice shall retain all notices returned by the postal service for no less than one hundred eighty (180) days after the date the case is closed or dismissed.

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated June 23, 2004, paragraph (c) of Rule 2002-1 was deleted.

B-2002-2
Notice of Opportunity to Object to Motions

(a) Except as otherwise ordered, the court will consider the following matters without holding a hearing, unless a party in interest files a timely objection to the relief requested:

(1) Motions to approve agreements relating to relief from the automatic stay; providing adequate protection; or prohibiting or conditioning the use, sale or lease of property.

(2) Motions to approve agreements relating to the use of cash collateral.

(3) Motions for authority to obtain credit.

(4) In cases pending under Chapter 7, motions for relief from the automatic stay.

(5) Motions to avoid liens on exempt property.

(6) Motions to redeem personal property from liens.

(7) Applications for administrative expenses, including compensation for services rendered and reimbursement of expenses.

(8) Motions to extend the time for filing claims.

(9) Motions to extend the exclusivity periods for filing a Chapter 11 plan.

(10) Motions to extend the time to assume or reject executory contracts and unexpired leases.

(11) Motions filed by a trustee or debtor-in-possession to assume or reject executory contracts and unexpired leases.

(12) Motions to approve a modification to a confirmed Chapter 11, Chapter 12 or Chapter 13 plan.

(13) Motions to approve a compromise or settlement.

(14) Motions to transfer a case to another district or to another division in this district.

(15) Motions to approve transactions outside the ordinary course of business, except motions for the sale or lease of personally identifiable information.

(16) Motions to sell property free and clear of liens and/or to distribute the proceeds of sale, except motions to sell or lease personally identifiable information.

(17) Motions to abandon property of the estate.

(18) Motions for relief from the co-debtor stay of 11 U.S.C. § 1201 or § 1301.

(19) Motions for the joint administration or substantive consolidation of cases.

(20) Motions to compel the debtor to turnover or deliver property to a trustee.

(21) In cases under Chapter 12 and 13, motions for a discharge prior to the completion of payments under a confirmed plan (motions for hardship discharge).

(22) Motion of a party in interest to enter a final decree in a case under Chapter 11.

(23) Trustees' Applications to Employ Professionals after Notice to Creditors filed pursuant to N.D. Ind. L.B.R. B-2014-2(b).

(24) Applications to employ professionals retroactively.

(25) Motions for discharge in individual Chapter 11 cases.

(26) Motions to determine final cure pursuant to FRBP Rule 3002.1(h).

(b) Except as otherwise ordered by the court:

(1) no less than fourteen (14) days notice shall be given of the opportunity to file objections to:

(A) motions to approve agreements relating to relief from the automatic stay, providing adequate protection, prohibiting or conditioning the use, sale or lease of property;

(B)) motions to approve agreements relating to the use of cash collateral;

(C) motions for authority to obtain credit;

(D) motions for relief from the automatic stay in cases pending under Chapter 7; and

(E) motions relating to abandonment of property from the estate.

(2) no less than twenty-one (21) days notice shall be given of the opportunity to file objections to the other motions subject to this rule.

In all cases, the time within which objections may be filed shall be measured from the date notice of the opportunity to object is served.

(c) Local Bankruptcy Form 3a (LBF-3a), Local Bankruptcy Form 3b (LBF-3b) or another form of notice substantially similar thereto shall be used to give creditors and parties in interest notice of the motion and the opportunity to object thereto. This notice **must** (1) identify the party seeking relief, (2) state the name of the motion and the date upon which it was filed, (3) briefly and specifically state what you are asking the court to do, (4) contain a brief summary of the ground for the motion or have a copy of the motion attached to it, (5) state the date by which objections to the motion are to be filed, where objections should be filed and upon whom copies should be served, (6) contain a statement to the effect that if no objections are filed by the date due the court may grant the relief requested without holding a hearing, (7) be dated as of the date it is served, and (8) be signed by counsel for the movant or the movant, if *pro se*, and contain the name, address and telephone number of the individual signing the notice.

(d) The moving party shall be responsible for properly completing the appropriate version of LBF-3 so that it contains the required information, serving it upon the entities required by the United States Bankruptcy Code, the applicable rules of bankruptcy procedure, the local rules of this court,[1] and/or any order of the court, and making due proof thereof. The failure to

[1]Pursuant to Rule 5003(e) of the Federal Rules of Bankruptcy Procedure, the clerk maintains a list containing the addresses of various state and federal governmental units. The list is available at the clerk's office and on the court's web site.

do so within seven (7) days of the date the motion was filed will be deemed to be a waiver of any time limits associated with ruling on the motion, including the time limits set forth in 11 U.S.C. § 362(e).

(e) The appropriate version of LBF-3 may also be adapted for use in those instances, not specifically covered by this rule, where the court directs that particular relief may be granted without a hearing following the expiration of notice to creditors. In those situations, in addition to complying with the other requirements of this rule, the notice shall be accompanied by a copy of the court's order authorizing notice to creditors and establishing the deadline for filing objections.

Commentary

Certain motions and applications can be granted after notice and the opportunity for a hearing. This Rule standardizes the practice and procedure for dealing with these motions. Paragraph (a) identifies the applications and motions to which this Rule applies. Paragraph (b) identifies the minimum amount of time between the date of service of the notice and the last day for objecting to the relief requested. Paragraph (c) governs the form of notice. Compliance with this paragraph is mandatory. Because the party filing a motion is responsible for preparing and serving the notice to creditors, the failure to use a complete and proper form of notice may result in the court's refusal to rule on the motion until proper notice has been sent.

Paragraph (a)(24) has been amended to clarify its scope, by changing the phrase "nunc pro tunc" to the word "retroactively." The term "nunc pro tunc" has a precise meaning (*See In re IFC Credit Corporation*, 663 F.3d 315, 317-18 (7th Cir. 2011)), which relates to correcting a record to properly document an actual previous event, rather than to relate something back when the event did not previously occur. The notice requirement refers to a circumstance in which a professional has in fact rendered services or established a professional relationship prior to being approved as a professional by the court - the professional now seeks to authorize employment retroactively to the date upon which services were first performed or the professional relationship arose.

Paragraph (b) does not specify which creditors and parties in interest are entitled to receive notice. Not all types of relief require notice to all creditors. You should consult the Code, the Bankruptcy Rules, and the Local Rules and General Orders to determine which creditors and parties in interest are entitled to receive notice of a particular type of motion.

Local Forms LBF-3a and LBF-3b may be used to comply with paragraph (c) of the Rule. Form 3a is used if you intend to summarize the grounds for the motion; Form 3b is used if a copy of the motion or application is attached to the notice. In briefly stating the specific remedy or relief you want the court to grant, it is important to be both brief and specific. A Motion for Abandonment, for example, would be the name of the motion; the relief requested by the movant, briefly summarized, would be to abandon from the bankruptcy estate the debtor's 1995 Ford Tempo automobile. Or, for example, if the motion is to modify a confirmed Chapter 13 Plan, the relief requested might be to extend the plan payments from 36 months to 60 months. The requested relief should be stated with sufficient particularity in the notice that the reader can determine, from this statement alone, what it is that the movant is asking the court to do. Would your client be satisfied if the court granted the relief you request in this part of the notice, as worded? If the relief you mention is generic or ambiguous, an order granting that relief in those terms might be ineffectual. Specificity is needed, but brevity is also required. The statement of relief sought should be concise, clear, and informative.

If you will not be attaching the actual motion to the notice, then Form 3a should be used. In addition to the brief, particular statement of the relief you are asking the court to grant, you should provide a summary of the grounds for the motion. Here you should state, in summary form, the factual basis for seeking the relief. The statement of the grounds of the motion should not be argumentative; nor should it be generic. The purpose is to inform the creditor body of the essential facts supporting your motion or application.

Paragraph (d) of the Rule is a reminder that the moving party is responsible for preparing the notice to creditors, making certain it is in proper form, and serving the notice on the proper parties. In certain cases, parties who must receive the notice include all creditors and parties in interest; in other circumstances, only particular creditors or parties are required to be served with the notice. The identity of the entities required to be served is beyond the scope of this Rule; the identity of parties required to be served is determined by the provisions of the Bankruptcy Code itself, applicable rules of bankruptcy procedure, the local rules of this court, or by any order of this court.

Paragraph (e) of the Rule provides for certain adaptations of the forms, in the event of circumstances not anticipated by the Rule for example, where the court independently orders notice to creditors with respect to motions, applications or relief, not specifically mentioned in paragraph (a) of the Rule.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated October 5, 2015, paragraph (a)(26) was added to include motions to determine final cure pursuant to FRBP Rule 3002.1(h).

By Order Making Technical Amendments to Local Bankruptcy Rules dated July 7, 2015, this rule was amended to change the word "mailed" to "served" in paragraph (a) and in the commentary.

By Order Making Technical Amendments to Local Bankruptcy Rules dated July 7, 2015, LBF-3a and 3b were amended to change the phrase "mail a copy of your objection to" to "serve a copy of your objection upon" and the word "mailed" to "served."

Pursuant to Order Amending Local Bankruptcy Rules dated October 9, 2014, paragraph (a)(24) was amended by changing the phrase "nunc pro tunc" to the word "retroactively" for clarification and adding additional explanatory commentary.

By Order Amending Local Bankruptcy Rules dated August 31, 2012, this rule was amended to include motions to disburse sales proceeds.

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

Pursuant to Order Amending Local Bankruptcy Rules dated May 11, 2009, paragraph (a)(25) was added to include motions for discharge in individual Chapter 11 cases.

Pursuant to Order Amending Local Bankruptcy Rules dated May 11, 2009, paragraph (a)(19) was amended to make a technical change to clarify the rule.

Pursuant to Order Amending Local Bankruptcy Rules dated August 31, 2007, paragraph (b)(1)(B) was amended to make a technical change to clarify the rule.

Pursuant to Order Adopting Interim Bankruptcy Rules and Amending Local Bankruptcy Rules dated October 14, 2005, this rule was revised to better implement the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

Pursuant to General Order 2005-01 dated April 28, 2005, paragraph (a)(24) was added to include applications to employ professionals nunc pro tunc.

Pursuant to Order Amending Local Bankruptcy Rules dated February 15, 2005, paragraph (a)(23) was added to include motions filed pursuant to new Rule 2014-2.

Pursuant to General Order 2003-01 dated April 28, 2003, new Rule 2002-2 became effective immediately.

LBF-3a (07/2015)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
[*division*]

IN THE MATTER OF:

[*name of debtor*]	)	CASE NO. [*case number*]
	)	CHAPTER [*chapter number*]
DEBTOR(S)	)	

NOTICE OF MOTION AND OPPORTUNITY TO OBJECT

On [*date*], [*name of moving party*], filed [*name of motion*], asking the court to [*briefly and specifically state what you are asking the court to do*]. In support of the relief requested, the motion states [*briefly summarize the motion*]. If you have not received a copy of the motion, you may get one by contacting the person who signed this notice or at the clerk's office.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the motion, then **on or before [*date*]** you or your attorney must:

1. File a written objection to the motion, which should explain the reasons why you object, with the Clerk of the United States Bankruptcy Court at:

[*address of the clerk's office for the division where the case is pending*]

If you mail your objection, you must mail it early enough so that it will be **received** by the date it is due.

2. You must also serve a copy of your objection upon:

[*name and address of movant's attorney or the movant, if pro se*]

[*name and address of any case trustee and the trustee's attorney, if any*]

[*in cases under Chapter 11, 12, or 13, name and address of debtor's attorney or the debtor, if pro se*]

[*names and addresses of any others to be served*]

If you do not file an objection by the date it is due, the court may grant the relief requested without holding a hearing. If you do file an objection, the court will set the motion for hearing, which you or your attorney will be expected to attend.

Date: [*date notice is served*]

[*signed*]
Name:
Title:
Address:
Telephone:

LBF-3b (07/2015)

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
[*division*]

IN THE MATTER OF:

[*name of debtor*]	)	CASE NO. [*case number*]
	)	CHAPTER [*chapter number*]
DEBTOR(S)	)	

NOTICE OF MOTION AND OPPORTUNITY TO OBJECT

On [*date*], [*name of moving party*], filed [*name of motion*], asking the court to [*briefly and specifically state what you are asking the court to do*]. A copy of the motion is attached to this notice.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.

If you do not want the court to grant the motion, then **on or before [*date*]** you or your attorney must:

1. File a written objection to the motion, which should explain the reasons why you object, with the Clerk of the United States Bankruptcy Court at:

[*address of the clerk's office for the division where the case is pending*]

If you mail your objection, you must mail it early enough so that it will be **received** by the date it is due.

2. You must also serve a copy of your objection upon:

[*name and address of movant's attorney or the movant, if pro se*]

[*name and address of any case trustee and the trustee's attorney, if any*]

[*in cases under Chapter 11, 12, or 13, name and address of debtor's attorney or the debtor, if pro se*]

[*names and addresses of any others to be served*]

If you do not file an objection by the date it is due, the court may grant the relief requested without holding a hearing. If you do file an objection, the court will set the motion for hearing, which you or your attorney will be expected to attend.

Date: [*date notice is served*]

[*signed*]
Name:
Title:
Address:
Telephone:

B-2002-3
Limited Notice in Chapter 7 Cases

In Chapter 7 cases, after all time periods for filing proofs of claim have expired, all notices required by Fed. R. Bankr. P. 2002(a), except for the notice of dismissal or denial of discharge, shall be served only upon the debtor, the attorney for debtor, the case trustee, the United States trustee, creditors who have filed claims, and creditors, if any, who are still permitted to file claims by reason of an extension granted under Fed. R. Bankr. P. 3002(c)(1) or (c)(2).

HISTORICAL AND REGULATORY NOTES

By Order Making Technical Amendments to Local Bankruptcy Rules dated July 7, 2015, this rule was amended to change the phrase "mailed only to" to "served only upon."

This new rule was adopted by Order Amending Local Bankruptcy Rules dated August 29, 2008.

B-2014-1
Employment of Professionals by Debtor-in-Possession

(a)(1) Except when employed for a special purpose under 11 U.S.C. § 327(e), to be eligible to be employed as counsel for the debtor-in-possession, an attorney must be a registered ECF user and shall make all filings in the case, including the application to employ, electronically.

(a)(2) All applications for employment of professionals by a debtor-in-possession, together with the accompanying affidavits and disclosures, including the disclosure of compensation required by Fed. R. Bankr. P. 2016, shall be served upon the United States trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), and all secured creditors.

(b) In addition to the other disclosures and affidavits required by the Bankruptcy Code and applicable Federal Rules of Bankruptcy Procedure, where the debtor-in-possession is not a natural person, the affidavit of the proposed professional shall specifically state:

(1) whether or not the debtor has any affiliates, as defined by 11 U.S.C. § 101(2), and, if so, (a) whether the professional or a member of the professional's firm or business represented or was employed by any such affiliate during the twelve months prior to the petition, and (b) any position, other than legal counsel, the professional or a member of the professional's firm or business holds or held in any such affiliate during the two years prior to the petition;

(2) if the professional or a member of the professional's firm or business has represented or been employed by any affiliate of the debtor during the twelve months prior to the petition, the circumstances of such representation or employment, all payments received on account of such representation or employment during the twelve months prior to the petition, and any amount owed on account of such representation or employment on the date of the petition;

(3) whether or not the professional or a member of the professional's firm or business represented or was employed by the debtor during the twelve months prior to the petition and, if so, the circumstances of such representation or employment, all payments received on account of such representation or employment during the twelve months prior to the petition, and any amount owed on account of such representation or employment on the date of the petition;

(4) any position, other than legal counsel, the professional or a member of the professional's firm or business holds or held in the debtor during the two years prior to the petition;

(5) whether or not the professional or a member of the professional's firm or business represented or was employed by an officer, director, shareholder, partner or limited partner of the debtor, or any entity that has guaranteed an obligation of the

debtor or is liable on any obligation of the debtor or pledged property to secure an obligation of the debtor and, if so, the circumstances of such representation or employment; and

(6) whether or not the professional or a member of the professional's firm or business has represented any scheduled creditor within the year prior to the date of the petition and, if so, the circumstances of such representation or employment.

(c) Unless objections to the application are filed seven (7) days prior to the date first set for the § 341 meeting or within twenty-one (21) days following service of the application, whichever is later, the court may approve the application without further notice or hearing. Unless the court orders otherwise for good cause shown, the failure to file an objection to the application within the time required will be deemed a waiver of any objection to the professional's employment by the debtor-in-possession and to the allowance or payment of fees on account of such employment based upon the disclosures made pursuant to paragraph (b).

(d) In the event the court approves the application, unless otherwise requested following notice to all creditors, the approval will relate back to the date the application was filed.

Commentary (1994)

This rule is designed to avoid after the fact realization that counsel for a debtor-in-possession may have a conflict of interest which would preclude it from representing a debtor-in-possession, by requiring counsel to pause and consider the unique potential for conflicts that the representation of a corporate debtor-in-possession may present. These disclosures will help to bring any such potential conflicts out into the open at the beginning of the case, when counsel first seeks authorization of its employment, rather than months or years later in the context of an objection to fees or a motion to disgorge fees previously paid.

Although some might find the proposed disclosures more burdensome than the standard "affidavit of disinterestedness" now used, their benefit comes from paragraph (c) providing for the waiver of any objection to the representation or payment of fees based upon the disclosures made in the affidavit.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated August 3, 2011, this rule was amended effective immediately, to add a requirement that counsel for the debtor-in-possession be a registered ECF user and make all filings electronically.

B-2014-2
Employment of Professionals by Trustees

(a) Except as otherwise requested, the court will consider and rule upon a bankruptcy trustee's application to employ a professional without notice or hearing.

(b)(1) If the trustee would like the court to defer ruling on an application to employ a professional until creditors have been given the opportunity to object to the application, the trustee shall file an "Application to Employ (Identify type of professional – attorney, accountant, etc.) After Notice to Creditors." In addition to the other disclosures and affidavits required by the Bankruptcy Code and the applicable Rules of Bankruptcy Procedure, the verified statement of the proposed professional shall also set forth the connections with any affiliates and/or insiders of the debtor and shall specifically state:

(A)(i) whether the professional or a member of the professional's firm or business represented or was employed by any affiliate or insider of the debtor during the twelve months prior to the petition, and (ii) any position the professional or a member of the professional's firm or business holds or held in any affiliate or insider of the debtor during the two years prior to the petition;

(B) if the professional or a member of the professional's firm or business has represented or been employed by any affiliate or insider of the debtor during the twelve months prior to the petition, the circumstances of such representation or employment, all payments received on account of such representation or employment, and any amount owed on account of such representation or employment on the date of the petition;

(C) whether or not the professional or a member of the professional's firm or business represented or was employed by the debtor during the twelve months prior to the petition and, if so, the circumstances of such representation or employment, all payments received on account of such representation or employment, and any amount owed on account of such representation or employment on the date of the petition;

(D) any position the professional or a member of the professional's firm or business holds or held in the debtor during the two years prior to the petition;

(E) whether or not the professional or a member of the professional's firm or business represented or was employed by an officer, director,

shareholder, partner or limited partner of the debtor, or any entity that has guaranteed an obligation of the debtor or is liable on any obligation of the debtor or pledged property to secure an obligation of the debtor and, if so, the circumstances of such representation or employment; and

(F) whether or not the professional or a member of the professional's firm or business has represented any scheduled creditor within the year prior to the date of the petition and, if so, the circumstances of such representation or employment.

(2) The application, together with the accompanying affidavits and disclosures, shall be served upon the United States trustee and all creditors and parties in interest, along with a notice of the application and the opportunity to object thereto prepared in accordance with local bankruptcy rule B-2002-2(c). Unless objections to the application are filed within twenty-one (21) days following service of the application and the notice of the opportunity to object thereto, the court may grant the application and approve the employment without further notice or hearing. Unless the court orders otherwise for good cause shown, the failure of any party served with notice of the opportunity to object to the application to file an objection within the time required will be deemed a waiver of any objection to the professional's employment by the trustee and to the allowance or payment of fees on account of such employment based upon the disclosures made in the application and the accompanying affidavits.

(c) Unless otherwise requested following notice to all creditors, the approval of a professional's employment will relate back to the date the application was filed.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

This new rule was adopted by Order Amending Local Bankruptcy Rules dated February 15, 2005.

B-2015-1
Report of Operations

(a) Every trustee, Chapter 11 debtor in possession, or other debtor who operates a business under any chapter of the Bankruptcy Code shall file a *monthly* statement of the cash receipts and disbursements no later than twenty-one (21) days after the end of the calendar month. This report shall include:

(1) A summary of all income and expenses for the reporting period;

(2) A statement of the use of, reductions and additions to raw materials and inventory, crops, livestock or other items held or produced for sale;

(3) A statement of the collection of and addition to accounts receivable;

(4) A reconciliation of all income and expenses while operating under Title 11;

(5) An itemized statement of all unpaid post-petition obligations;

(6) A statement of insurance coverage;

(7) Proof or certification of payment of all post-petition taxes due, including taxes withheld or collected from others; and

(8) A statement identifying any federal or state tax returns filed during the reporting period, including verification of tax deposits.

The report may be in any appropriate form or format containing the minimum information required.

(b) In addition to the electronic service automatically effected by the court's ECF System, the report shall be served upon the chair of any committee.

(c) The failure to comply with the reporting requirements of paragraph (a) may constitute cause for conversion, dismissal, or the appointment (or removal) of a trustee pursuant to 11 U.S.C. § 1112.

Commentary (1994)

A rule concerning monthly operating reports is necessary notwithstanding the requirements of the United States Trustee's office, as the revision to the national rules (2015(a)(5)) seems to indicate that reporting requirements will be on a quarterly basis and tied to the timing of the fees due the United States Trustee.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated December 16, 2009, this rule was amended effective January 1, 2010, to provide for substantive changes and delete paragraph (d).

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-2015-2
Post-Petition Taxes and Tax Returns

Every trustee or debtor who operates a business under any chapter of the United States Code shall:

(1) file all federal, state and local tax returns and shall pay all federal, state and local taxes on account of the operations of the estate as and when due; and

(2) segregate and pay as and when due any and all taxes withheld from employees or collected from others under any federal, state or local law.

HISTORICAL AND REGULATORY NOTES

Pursuant to General Order 2003-01 dated April 28, 2003, paragraph (b) of this rule was abrogated.

B-2090-1
Student Practice Rule

(a) **Purpose**. Effective legal service for each person in the Northern District of Indiana, regardless of that person's ability to pay, is important to the directly affected person, to our court system, and to our whole citizenry. Law students, under supervision by a member of the bar of the District Court for the Northern District of Indiana, may staff legal aid clinics organized under city or county bar associations or accredited law schools, or which are funded pursuant to the Legal Service Corporation Act. Law students and graduates may participate in legal training programs organized in the offices of United States Attorneys.

(b) **Procedure**. A member of the legal aid clinic, in representation of clients of such clinic, shall be authorized to advise such persons and to negotiate and appear on their behalf. These activities shall be conducted under the supervision of a member of the bar of the District Court for the Northern District of Indiana. Supervision by a member of this bar shall include the duty to examine and sign all pleadings filed on behalf of a client. Supervision shall not require that any such member of the bar be present in the room while a student or law graduate is advising a client or negotiating on his or her behalf nor that the supervisor be present in the courtroom during a student's or graduate's appearance. In no case shall any such student or graduate appear without first having received the approval of the judge of that court for the student's appearance. Where such permission has been granted, the judge of any court may suspend the trial proceedings at any stage where the judge in his or her sole discretion determines that such student's or graduate's representation is professionally inadequate and substantial justice so requires. Law students or graduates serving in a United States Attorney's program may be authorized to perform comparable functions and duties as assigned by the United States Attorney subject to all the conditions and restrictions in this rule and the further restriction that they may not be appointed as Assistant United States Attorneys.

(c) **Eligible Students**. Any student in an accredited law school who has received a passing grade in law school courses and has completed the freshman year shall be eligible to participate in a legal aid clinic if (1) the student meets the academic and moral standards established by the dean of that school, and (2) the school certifies to the court that the student has met the eligibility requirements of this rule.

B-3002-1
Filing and Allowance of § 503(b)(9) Administrative Claims

(a) A creditor whose claim may include amounts entitled to priority under 11 U.S.C. § 503(b)(9) (value of goods delivered during the 20 days prior to the commencement of the case) may file a proof of claim within the claims deadline established by the court. The amount of the claim entitled to priority, and the basis for the claimed priority, shall be stated on the proof of claim.

(b) Unless the court orders otherwise, a motion for the allowance of a § 503(b)(9) administrative expense must be filed no later than the expiration of the claims deadline. This motion shall state, with particularity, the goods delivered to the debtor during the 20 days prior to the petition, the date or dates of delivery, and their value. Movant shall be responsible for serving all creditors and parties in interest with notice of the motion, in accordance with Local Bankruptcy Rule B-2002-2(a)(7), and making due proof thereof. Absent objection within the time required by that rule, *see*, N.D. Ind. L.B.R. B-2002-2(b), the court will consider the motion without a hearing.

Commentary

Section 503(b)(9) administrative claims are something of a chimera. They have all the attributes of a prepetition claim, *see*, *e.g.*, 11 U.S.C. §§ 101(5), 501, and as such are subject to the requirements for those claims. *See*, *e.g.*, 11 U.S.C. § 502(a), (b). Yet, having been given administrative, not just priority, status, *compare* 11 U.S.C. § 507(a) with 11 U.S.C. § 503(b), they are also subject to the requirements of administrative claims, including allowing them "[a]fter notice and a hearing." The proposed rule tries to recognize both aspects of these claims and by doing so preserve the creditor's rights.

As a right to payment arising before the date of the petition, the Proof of Claim form (Official Form 410) may be used to assert a claim which might be entitled to administrative status under 11 U.S.C. § 503(b)(9). In doing so, the creditor should, in section 5 of that form regarding priority status, mark the box labeled "Other" and specify that the claim is filed pursuant to 11 U.S.C. § 507(a)(3) and § 503(b)(9), and then state the amount so claimed in the blanks provided. Among other things, using the claim form and following the usual claims process will preserve the creditor's rights to a general unsecured claim in the event any issue of administrative status would be resolved against it. To receive administrative status, the claimant must also satisfy the procedural requirements of 11 U.S.C. § 503(b) which require "notice and a hearing" before administrative claims – including § 503(b)(9) claims – can be allowed. This does not require an actual hearing, only the opportunity for one, 11 U.S.C. § 102(1), but it does require something more than whatever "notice" might come from simply filing something on the docket. The language of § 102(1)(B)(i) that no hearing is required if "a hearing is not timely requested" suggests that some type of formal notice of the deadline for requesting a hearing needs to be given.

This Rule also establishes a deadline for requesting the allowance of § 503(b)(9) administrative claims. *See*, 11 U.S.C. § 503(a). Unlike other administrative claims, which do not exist as of the date of the petition, a § 503(b)(9) claimant can determine the amount of its administrative claim early in the case, and so the rule establishes a deadline for it to do so and to file the required motion. Absent a timely motion for allowance, the claim may still be allowed as a general unsecured claim under 11 U.S.C. § 502(a).

HISTORICAL AND REGULATORY NOTES

By Order Making Technical Amendments to Local Bankruptcy Rules dated November 25, 2015, the commentary was amended to change the phrase "Official Form 10" to "Official Form 410."

By Order Amending Local Bankruptcy Rules dated May 5, 2011, this new rule was adopted effective immediately.

B-3006-1
Withdrawal of Claim

(a) A request to withdraw a claim after it has been objected to, after the creditor has been named as a defendant in an adversary proceeding, or after the creditor has participated significantly in the case, shall be served upon the trustee or debtor-in-possession, any committee, all parties who objected to the claim, and the United States trustee. In the absence of an objection or other response within twenty-one (21) days after the date the request to withdraw is filed with the court, the court may allow the claim to be withdrawn without further notice or hearing.

(b) A request to withdraw a claim does not extend or defer the deadline for filing a response to a claim objection and will not delay any proceeding concerning the claim or the court's ruling thereon.

Commentary

This rule does little more than state what one would expect an objection to contain – the reason for the objection – and the common-sense requirement that it should be served upon the claimant as well as the other parties that are most likely to be interested in establishing the correct amount due.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

This new rule was adopted pursuant to Order Amending Local Bankruptcy Rules dated June 23, 2004.

B-3007-1
Objections to Claims; Default

(a) Except as otherwise authorized by Rule 3007 of the Federal Rules of Bankruptcy Procedure regarding omnibus claim objections, an objection to a proof of claim shall be limited to the claim or claims filed by a single creditor, unless the objection is directed to a claim which has been filed jointly by more than one creditor.

(b) An objection to a proof of claim shall identify the creditor by name and the claim number as assigned by the court, and shall state with specificity the basis for disallowance or allowance in an amount or with a priority other than that claimed.

(c) Local Bankruptcy Form 2 (LBF-2) shall be used to give the claimant notice of the claim objection and the opportunity to respond thereto, instead of Official Bankruptcy Form 20(B).

(d) The objector shall be responsible for completing LBF-2 and serving it, along with the claim objection, and making due proof thereof, in accordance with Rule 7004 of the Federal Rules of Bankruptcy Procedure upon:

(1) the claimant, and claimant's attorney if an appearance has been filed;

(2) any trustee; and

(3) the debtor and debtor's counsel.

(e) Unless a response to the objection is filed within thirty (30) days following service of the notice of objection, the court may disallow or modify the claim in accordance with the objection, without further hearing.

Commentary (1994)

This rule is new. Paragraph (b), [now paragraph (e)], is derived from Southern District of Indiana L.B.R. B-3007. It provides a mechanism to deal with claim objections without a hearing where the claimant fails "to respond as directed in an order…."

Paragraph (a), [now paragraph (b)], does little more than state what one would expect an objection to contain – the reason for the objection – and the common sense requirement that it should be served upon the claimant as well as the other parties that are most likely to be interested in establishing the correct amount due.

HISTORICAL AND REGULATORY NOTES

By Order Making Technical Amendments to Local Bankruptcy Rules dated July 7, 2015, LBF-2 was amended to change the phrase "mail a copy of your response to" to "serve a copy of your response upon" and the word "mailed" to "served."

By Order Amending Local Bankruptcy Rules dated May 5, 2011, this rule was amended to make technical corrections to clarify the rule.

Pursuant to Order Amending Local Bankruptcy Rules dated November 30, 2007, paragraph (a) of this rule was amended to conform to the provisions of the amended national rules.

Pursuant to General Order 2001-01 dated February 2, 2001, this rule was adopted along with LBF-2; General Order 98-1 was vacated.

LBF-2 [07/2015]

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
_____DIVISION

IN THE MATTER OF:	)	
	)	
[*name of Debtor*]	)	CASE NO. [*case #*]
	)	
DEBTOR(S)	)	

NOTICE OF OBJECTION TO CLAIM

To: [*name of creditor*]

[*Name of party objecting to claim*] has filed an objection to your claim in this bankruptcy case. A copy of the objection accompanies this notice.

As a result of the objection, *your claim may be reduced, modified or eliminated*. You should read these papers carefully and discuss them with your attorney.

If you do not want the court to eliminate or change your claim, then **within thirty days (30)** of the date of this notice you or your attorney must:

1. File with the court a written response to the objection, explaining your position, at:

[*address of clerk's office for the division in which the case is pending*]

If you mail your response to the court, you must mail it early enough so that it will be **received** within the time required.

2. You must also serve a copy of your response upon:

[*name and address of objector's attorney or the objector, if pro se*]

[*name and address of the case trustee and the trustee's attorney, if any*]

[*in cases under Chapter 11, 12, or 13, name and address of debtor's attorney or the debtor, if pro se*]

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim.

Date: [*date notice is served*]

[*signature*] _____
Name:
Address:
Telephone:

§ 524(c)(4)

B-3011-1
Payment of Unclaimed Funds

(a) A motion or other request for the payment of unclaimed funds, which have been deposited with the court pursuant to 11 U.S.C. § 347(a), Fed. R. Bankr. P. 3010 or Fed. R. Bankr. P. 3011, must be made through an attorney who is a member of the bar of this court, unless the entity entitled to receive payment is a natural person making the request on its own behalf and not as an agent or other representative of the claimant.

(b) The motion shall be accompanied by an affidavit, together with any appropriate supporting documentation, executed by the claimant demonstrating the claimant's present entitlement to the funds. If the claimant is the entity for whose benefit the funds were originally deposited, the affidavit shall contain a statement to the effect that the right to payment has not, in any way, been transferred or assigned to any other entity.

(c) If the claimant is not a natural person, the affidavit required by paragraph (b) shall be executed by an officer, director, general partner, or other individual authorized to do so and shall be accompanied by proof that the individual executing the affidavit has been authorized to do so on behalf of the claimant and of the capacity in which the individual acts.

(d) The motion and a notice of the motion shall be served upon the United States Attorney, in the manner required by Fed. R. Bankr. P. 7004, and shall be accompanied by a proof of service showing the address to which service was directed and the manner in which service was made.

(e) In the absence of an objection or other response from the United States Attorney, within thirty (30) days of the date the motion is filed, the court may determine the motion, without further notice or hearing.

(f) The failure to comply with the requirements of this rule may result in the motion being denied.

Commentary (1994)

This rule is designed to implement 28 U.S.C. §2042, concerning the manner in which money deposited with the court is retrieved. Beyond requiring notice to the U.S. Attorney and proof of entitlement, the statute is silent as to how this is to be done. The Bankruptcy Code and Rules deal only with depositing the money with the court and do not speak to getting it out. The rule is largely prompted by the problems the court has recently encountered in this area due to "unclaimed funds locators."

Paragraph (a) does nothing more than reiterate the court's general rule requiring entities other than natural persons to appear through counsel. This seems to be appropriate since the motion asks for a court order, based upon a judicial determination that the movant has proven its entitlement to funds in possession of the clerk. Although such a restatement of the general rule is arguably unnecessary, it has been reiterated for ease of reference and for the sake of clarity. It is also legitimately applied to the scenario presented by fund locators. These individuals often are not attorneys and base their right to proceed upon a power of attorney authorizing them to collect the funds on the claimant's behalf. Existing

law in Indiana indicates that this is improper. *See* Simmons v. Carter, 576 N.E. 2d 1278 (Ind. App. 1991)(judgment rendered in an action initiated on behalf of a plaintiff by a non-lawyer, acting pursuant to a power of attorney, was void).

Paragraphs (b) & (c) are designed to ensure that the motion makes a proper showing (ie. presents a prima facie case) concerning the claimant's right to distribution of the funds at the time the motion is made and that, in the case of a claimant other than a natural person, there is some type of verification that the individual executing the affidavit is what he purports to be - in other words, proof that the "president" of the corporation is really the president.

Paragraph (d) is nothing more than a restatement of the requirements of a proper proof of service.

Paragraph (e) is designed to implement the statutory requirement of notice to the U.S. Attorney, by ensuring that it as an appropriate opportunity to file any response.

Paragraph (f) serves only to provide public notice of the consequences of a failure to comply with the requirements of the rule.

B-3017.1-1
Consideration of Disclosure Statements in Small Business Cases and Confirmation Deadlines

(a) If the proponent of a plan in a small business case would like the court to:

(1) determine that the plan itself provides adequate information and that a separate disclosure statement is not necessary;

(2) approve a disclosure statement submitted on an approved official form,

(3) conditionally approve a disclosure statement subject to final approval at hearing where the court will also consider confirmation of a proposed plan, or

(4) allow the proponent to defer filing of a proposed plan until after a disclosure statement has been approved,

it shall file an appropriate motion at the same time as the proposed plan or the proposed disclosure statement is filed. Such a motion shall state, with particularity, why a separate disclosure statement may be dispensed with, why a separate hearing to consider the adequacy of a disclosure statement is not necessary, or why the filing of a plan should be deferred.

(b) Absent an order granting a motion submitted in accordance with paragraph (a), the court will schedule the matter for such proceedings as it deems appropriate.

(c) At any hearing where the court is to consider the adequacy of a proposed disclosure statement, the court may also, either on its own initiative or at the request of any party in interest, consider whether any applicable deadlines for confirming a proposed plan should be extended.

HISTORICAL AND REGULATORY NOTES

This new rule was adopted pursuant to Order Amending Local Bankruptcy Rules dated August 31, 2007.

B-3018-1
Chapter 11 Confirmation: Balloting

(a) Any entity entitled to accept or reject a proposed plan may do so by delivering an appropriate ballot to the proponent or other individual identified by the court on or before the date set by the court. Each ballot shall clearly indicate, either by designation or description, the class in which the entity is voting to accept or reject. An entity entitled to cast a ballot in more than one class shall submit a separate ballot for each class in which it desires to vote to accept or reject a proposed plan.

(b) Unless the court orders otherwise, the proponent of the plan shall prepare, file, and serve a verified report of the results of the balloting no later than fourteen (14) days before the date set for the hearing on confirmation. The report shall include the designation and description of each class provided for by the plan and whether or not any such class is impaired, the total number and amount of claims voting in each class and the number and amount of claims voting to accept and to reject the plan. The report shall also identify any material change from the disclosure statement's representations concerning the requirements for confirmation established by 11 U.S.C. § 1129(a) and shall indicate whether there are sufficient funds available with which to make the payments due upon the effective date of the plan. All ballots received shall be attached to the ballot report. A similar report on any ballots received after the last date fixed for delivering acceptances or rejections shall be made by the proponent of the plan at the hearing on confirmation and shall be accompanied by such ballots.

(c) The proponent shall serve copies of the first ballot report upon the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d). If the proponent is an entity other than the debtor, a copy shall also be served upon the debtor and debtor's counsel.

Commentary (1994)

Paragraph (a) is derived from Bankr. Rule 3018(d), its commentary and the committee note to official form 14 (ballot).

Paragraph (b) is derived from prior Rule B-223(e), although the required contents of a ballot report are identified with greater specificity. These requirements have been derived from a proposed local rule for the Northern District of Illinois.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-3020-1
Chapter 11 Confirmation: Hearing

(a) In a case under Chapter 11, if all the requirements for confirmation of 11 U.S.C. § 1129(a) are met other than those contained in paragraph (8) (acceptance or deemed acceptance of the plan by all classes), should the proponent intend to seek confirmation over the rejection of any class pursuant to the requirements of 11 U.S.C. § 1129(b), the proponent shall file and serve a request to do so no later than fourteen (14) days before the date set for the confirmation hearing. The request shall identify the class or classes which have rejected the plan as to which the proponent contends the requirements of 11 U.S.C. § 1129(b) are fulfilled and shall state how those requirements have been fulfilled as to each such class, so that the plan may be confirmed notwithstanding the rejection of such class or classes. The request shall be served upon each entity which cast a ballot in any such rejecting class and upon the entities entitled to receive copies of the ballot report. At the initial confirmation hearing the court may determine that the proposed plan does not discriminate unfairly and is fair and equitable as to a rejecting class, based upon the information contained in the request, without further proof, unless at least one rejecting member of such class appears at the confirmation hearing.

(b) The proponent of the plan may be required to file an application to fix the amount of any confirmation deposit, no less than fourteen (14) days before the date set for the hearing on confirmation, which shall include the computations which were used in arriving at the amount of any deposit.

Commentary (1994)

Paragraph (a) is based upon §1129(b) which specifically requires the proponent to request "cram down" of a plan. The formal request is rarely, if ever, made as to a class which has only voted to reject a plan and has not also filed a separate objection to the plan as well.

Paragraph (b) is existing rule B-223(d).

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-3022-1
Final Decree in Chapter 11 Cases

(a) Unless the confirmed plan or the order of confirmation otherwise provides, an estate under Chapter 11 may be deemed to be fully administered when:

(1) at least one hundred eighty (180) days have passed after the date of the entry of the order of confirmation;

(2) all adversary proceedings, contested matters and other disputes, including appeals, have been resolved by a final, nonappealable order or dismissed; and

(3) no paper has been filed in the case for a least sixty (60) days.

(b) The court may, on its own motion and without notice or hearing, enter a final decree and close a case under Chapter 11 when the estate is deemed to be fully administered.

(c) Upon the motion of a party in interest, following notice to creditors, the court may enter a final decree and close a case under Chapter 11, without a hearing, in the absence of an objection thereto.

Commentary (1994)

Bankruptcy Rule 3022 authorizes the entry of a final decree closing a case under Chapter 11, on the court's own motion or the motion of a party in interest, when the estate has been "fully administered." This rule identifies the point in time when the court will act on its own initiative and establishes a notice and opportunity to object procedure when a party in interest seeks a final decree.

B-4001-1
Relief from Stay in Chapter 13 Cases

(a) If a confirmed chapter 13 plan provides for the surrender of property in which a creditor has an interest, whether as a lienholder or as a lessor, the automatic stay is terminated upon confirmation, and without the need for a further order of the court, to allow the creditor to foreclose upon, repossess, or otherwise proceed *in rem* against that property. The surrendered property will, nonetheless, remain property of the estate until it has been disposed of pursuant to applicable non-bankruptcy law as a result of the creditor's proceedings unless the confirmed plan specifically provides for its abandonment or the court enters a separate order of abandonment, following an appropriate motion and notice to creditors.

(b) In a case under chapter 13, if the provisions of a plan provide for the surrender of property in which a creditor has an interest, the court will consider a motion for relief from stay and/or abandonment as to such property without holding a hearing, unless a party in interest files an objection to the relief requested, provided that:

(1) The motion is titled "Motion for Relief from Stay and/or Abandonment Because Plan Proposes to Surrender Property";

(2) Movant serves all creditors and parties in interest with a notice of the motion and the opportunity to object thereto, containing the information required by Local Bankruptcy Rule B-2002-2(c), and makes due proof thereof; and

(3) The deadline for filing objections to the motion is no less than fourteen (14) days after service of the notice and no sooner than seven (7) days after the first date set for the meeting of creditors held pursuant to section 341(a) of the United States Bankruptcy Code.

The failure to comply with the requirements of sub-paragraphs (b)(2) and (b)(3) will constitute a waiver of any time limits associated with ruling on the motion, including the time limits set forth in 11 U.S.C. § 362(e).

(c) In a case under Chapter 13, a motion for relief from stay and/or abandonment, other than a motion because a plan proposes to surrender property, will be set for such proceedings as the court deems appropriate, and must include the following information:

(1) Copies of documents upon which the claim is based, including loan documents and documents that evidence both the grant of the lien, security interest, mortgage or other encumbrance, and its proper perfection or proper recordation;

(2) The balance owing as of the date the petition is filed, and the date and amount of any payments received since the filing;

(3) The total arrearage as of the petition date, the number of pre-petition payments in arrears, and the amount of each such payment;

(4) The movant's best estimate of the value of the collateral and the basis for that value;

(5) The identity of any person or entity claiming an interest in the property that is the subject of the motion and of which movant is aware; and

(6) If the motion is based upon a post-petition payment default, the motion and/or exhibits thereto shall also contain the following:

(A) A legible post-petition payment history that sets forth the date each post-petition payment was received, the amount of each post-petition payment, and how each post-petition payment was applied;

(B) An itemization of any other expenses or fees that are due post-petition including attorney fees, filing fees, late payment fees, and escrow advance;

(C) The total dollar amount necessary to cure the post-petition debt as of a date certain; and

(D) The address where the current monthly payment is to be mailed if the mailing address is not listed in the movant's filed proof of claim or if the mailing address has changed.

The failure to provide the documentation and/or information required by this paragraph may result in the motion being stricken or denied.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated December 16, 2009, this rule was amended effective January 1, 2010, to provide for substantive changes in paragraph (c).

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

Pursuant to Order Amending Local Bankruptcy Rules dated May 11, 2009, this new rule became effective immediately.

B-4002-1
Debtor's Duties

(a) In addition to the other duties imposed upon a debtor by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, the debtor under any chapter shall:

(1) Cooperate with the United States trustee by furnishing such information as the United States trustee may reasonably require in supervising the administration of the estate; and

(2) Immediately upon the entry of an order for relief, give written notice of the bankruptcy to any court or other tribunal where an action or other proceeding is being maintained against the debtor, whether or not the matter has proceeded to final judgment, and to all the parties involved in any such action or proceeding.

(b) The payment advices or other evidence of payment referred to in 11 U.S.C. § 521(a)(1)(B)(iv) need not be filed with the court.

Commentary (1994)

Paragraph (a) is based upon former Bankruptcy Rule X-1007(b). Although the obligation to cooperate with the UST is certainly implicit, the current version of the Bankruptcy Rules has not continued the explicit commandment of former rule X-1007(b).

Paragraph (b) [now paragraph (a)(2)] is based upon S.D.Ind.L.B.R. 4002(a). It is designed to minimize or eliminate any problems that might arise due to a delay between the actual filing of a petition for relief (with the resulting creation of the automatic stay) and ultimate notice to creditors of it. Consequently, despite the filing of the petition, when no one is told about it, employers continue to observe garnishment orders and sheriffs continue to sell property upon foreclosure, as previously ordered by the state court. Such a situation accomplishes nothing beyond breeding unnecessary litigation to undo something that could have been so easily avoided. Furthermore, given the safe harbor of §549(c) it may not be possible to undo some of these otherwise improper transactions.

Although the rule does not and cannot change the scope or impact of the automatic stay, it places the burden of informing other courts of it upon the debtor, since it is the debtor (or debtor's counsel), who will first become aware of its creation and is also most vitally interested in taking advantage of its protection.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated December 16, 2009, this rule was amended effective January 1, 2010, to provide for substantive changes including renumbering of paragraphs and adding paragraph (b). General Order 2005-03 is vacated with the amendment of this rule.

B-4002-2
Payments by Debtors in Chapter 13 Cases

Notwithstanding the provisions of 11 U.S.C. § 1326(a)(1)(B) and 1326(a)(1)(c), the debtor shall not reduce the payments to the Chapter 13 trustee, and any payments required by these sections shall be paid by the trustee following proper notice and order of the court.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated December 16, 2009, this new rule was adopted effective January 1, 2010. General Order 2005-03 is vacated with the adoption of this new rule.

B-4003-1
Manner of Claiming Exemptions

(a) Any property claimed as exempt shall be adequately described and itemized on the schedules required by Fed. R. Bankr. P. 1007. General terms (*i.e.*, "automobile," "personal property," "common stock," etc.) are not sufficiently descriptive and shall render any such claim ineffective. The section number of the statute under which such exemption is claimed shall be shown.

(b) The amount of a claimed exemption shall be limited by the dollar "Value of Claimed Exemption" listed on Schedule C regardless of the value of the asset. A debtor intending to claim an exemption which is not limited by a dollar amount shall indicate on Schedule C that the "Value of Claimed Exemption" is "ALL" or 100% of fair market value (FMV).

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 2, 2016, paragraph (b) of this rule was amended to address the new schedule C that was adopted effective December 1, 2015.

Pursuant to Order Amending Local Bankruptcy Rules dated September 11, 2009, this rule was amended to add paragraph (b).

B-4004-1
Extensions of Time for Filing Discharge Objections and Dischargeability Complaints

(a) Motions for an extension of the time within which to file complaints objecting to a debtor's discharge, pursuant to 11 U.S.C. § 727, or to determine the dischargeability of debt, pursuant to 11 U.S.C. § 523, shall be combined with notice thereof, be filed prior to the expiration of the bar date to be extended and be served upon the United States trustee, any trustee, debtor and debtor's counsel, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d).

(b) At a minimum, the motion shall state the cause for the requested extension, the date to which the time is to be extended, and contain a statement that any objections to the motion must be filed within fourteen (14) days of the date the motion was served.

(c) In the absence of an objection to the motion within fourteen (14) days after service the court may grant the motion without further notice or hearing.

Commentary (1994)

This rule is designed to expedite the process of ruling on motions for an extension of the §523 & §727 bar dates, by dispensing with the notice to creditors or the separate hearing. It also limits the number of entities who receive notice of the requested extension. This limitation should not seriously impact upon the rights of the parties, since it will almost always be the debtor who is most passionately interested in the expiration of these dates and, therefore, the party most likely to object.

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated February 15, 2005, paragraph (d) of this rule was deleted.

B-4004-2
Discharge in Chapter 13 Cases

(a) In any case filed on or after October 17, 2005, in order to receive a discharge after completing all the payments under a confirmed plan, the debtor shall file a Verified Motion for the Entry of a Chapter 13 Discharge. In a joint case a separate motion shall be filed by each debtor.

(b) (1) The Verified Motion for the Entry of a Chapter 13 Discharge shall separately affirm under penalties of perjury that the debtor has fulfilled each of the statutory requirements for a discharge. At the time of the adoption of this rule, those requirements are:

(A) that the debtor has completed all the payments required by the confirmed plan, whether made to the Chapter 13 trustee, or made directly to creditors (11 U.S.C. § 1328(a));

(B) if the debtor is required by any judicial or administrative order, or any statute, to pay a domestic support obligation, as defined by 11 U.S.C. § 101(14A), that the debtor has paid all amounts payable under such order or such statute that are due on or before the date of the certification (including amounts due before the petition was filed to the extent payment of such amounts was provided for by the plan (11 U.S.C. § 1328(a));

(C) that the debtor did not receive a discharge in a case filed under Chapter 7, 11, or 12 of the United States Bankruptcy Code during the four years prior to the date of the order for relief under Chapter 13 in the case (11 U.S.C. § 1328(f)(1));

(D) that the debtor did not receive a discharge in a case filed under Chapter 13 of the United States Bankruptcy Code during the two years prior to the date of the order for relief under Chapter 13 in the case (11 U.S.C. § 1328(f)(2));

(E) that, after filing the petition, the debtor completed a course concerning personal financial management, and that a copy of the certificate of completion of that course has been filed with the court, or that the court has exempted the debtor from completing such a course (11 U.S.C. § 1328(g)); and

(F)) that there is no proceeding pending in which the debtor might be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A), or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B), and there is no reason to believe that 11 U.S.C. § 522(q)(1) might apply to the debtor (11 U.S.C. § 1328(h)).[1]

(2) In the event the debtor is required to pay a domestic support obligation, the verified motion shall also contain the name and address of the entity to whom such payments are to be made and the name and address of the debtor's employer. (See, 11 U.S.C. § 1302(d)(1)(c)).

[1]This requirement is applicable to cases filed on or after April 20, 2005.

(3) Local Bankruptcy Form LBF-4004-2 shall be used to file a motion for discharge, and any other form of motion may be subject to summary denial without notice or hearing. If the debtor is represented by counsel, the motion shall also be signed by debtor's counsel.

(c) The clerk will issue notice of a Motion for the Entry of a Chapter 13 Discharge and give all creditors and parties in interest at least thirty (30) days notice of the opportunity to object thereto. Absent timely objection, the motion may be granted and a discharge issued, without a hearing.

(d) If a Motion for the Entry of a Chapter 13 Discharge is not filed within thirty (30) days after the filing of the trustee's final report, the court may close the case without issuing a discharge, but doing so shall not prejudice the debtor's right to file a motion to reopen under 11 U.S.C. § 350(b).

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated December 1, 2009, this rule and associated local form were amended to conform to the statutory provisions of 11 U.S.C. § 1328.

Pursuant to Order Amending Local Bankruptcy Rules dated July 23, 2008, this rule was amended to add a sentence to the end of paragraph (a).

Pursuant to Order Amending Local Bankruptcy Rules dated April 25, 2008, this new rule became effective June 15, 2008, along with LBF-4004-2.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
_____ DIVISION

IN THE MATTER OF:	)	
	)	
	)	CASE NO.
	)	
DEBTOR	)	

VERIFIED MOTION FOR ENTRY OF CHAPTER 13 DISCHARGE

Comes now the debtor, _____, and, pursuant to 11 U.S.C. § 1328(a), moves the court for the entry of a discharge in this Chapter 13 case. In support of this request, I state the following:

1. All of the payments required by the confirmed plan, whether made to the Chapter 13 trustee or made directly to creditors, have been completed.

2. *NOTE: Please select one of the following paragraphs and delete the other.*

[*Option 1*] I am required to pay a domestic support obligation, as defined by 11 U.S.C. § 101(14A), to:

name of entity to whom support is paid -
mailing address -

and all such amounts that are due on or before the date of this motion have been paid. The name and address of my employer(s) is/are:

employer's name -
mailing address -

OR

[*Option 2*] I am not required to pay a domestic support obligation, as defined by 11 U.S.C. § 101(14A).

3. I did not receive a discharge in a case filed under Chapter 7, 11, or 12 of the United States Bankruptcy Code during the four years prior to the date of the order for relief under Chapter 13 in this case.

4. I did not receive a discharge in a case filed under Chapter 13 of the United States Bankruptcy Code during the two years prior to the date of the order for relief under Chapter 13 in this case.

5. *NOTE: Please select one of the following paragraphs and delete the other.*

[*Option 1*] After filing the petition in this case, I completed a course concerning personal financial management, and a copy of the certificate of completion of that course has been filed with the court.

OR

[*Option 2*] The court has exempted me from completing a course concerning personal financial management.

6. There is no proceeding pending in which I might be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A), or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B), and there is no reason to believe that 11 U.S.C. § 522(q)(1) might apply to me.

7. [*Available for additional explanation or information.*]

Wherefore, I respectfully request that, following notice and the opportunity for a hearing, the court enter a discharge pursuant to 11 U.S.C. § 1328(a).

I certify under the penalty of perjury, that the foregoing statements are true and correct.

_____
Signature of Debtor

Date: _____

Respectfully submitted,

_____
Attorney for Debtor

Address:

Telephone:
Email:

B-4004-3
Discharge in Chapter 11 Cases for Individual Debtors

(a) If the debtor is an individual, in order to receive a discharge in a case under Chapter 11 the debtor must file an appropriate motion. The motion may be filed either before or after confirmation of a plan in accordance with the provisions of this rule.

(b) Prior to confirmation, if the debtor would like the court to consider issuing a discharge upon confirmation of a proposed plan, it shall file a "Motion for Discharge Upon Confirmation." The motion shall state, with particularity, the reason or reasons for issuing a discharge before payments under the plan have been completed and shall be filed prior to the hearing to consider the adequacy of the disclosure statement or at the same time the debtor files a motion under local bankruptcy rule B-3017.1-1 to dispense with such a hearing. The court will hold a hearing on the debtor's motion for discharge, upon notice to all creditors and parties in interest, at the same time it considers confirmation of the proposed plan. Any objections to the motion must be filed within the time required by local bankruptcy rule B-9014-1(b) (no later than seven days prior to the hearing).

(c) After confirmation, when the debtor would like the court to consider issuing a discharge it shall file a "Motion for Discharge." The motion shall state how the debtor has satisfied the requirements for the entry of discharge, *see*, 11 U.S.C. § 1141(d)(5), by alleging, with particularity:

(1) that all the payments required by the confirmed plan have been completed; or,

(2) if all the payments required by the confirmed plan have not been completed, which payments have yet to be made, and

(A) the reason or reasons for issuing a discharge before payments have been completed; or

(B) how the distribution actually made on account of each allowed unsecured claim has satisfied the best interest of creditors test and why modification of the plan is not practicable.

The debtor shall serve all creditors and parties in interest with notice of a motion for discharge, in accordance with local bankruptcy rule B-2002-2, giving at least twenty-one (21) days notice of the opportunity to object thereto. Unless a creditor or other party in interest files a timely objection, the court will consider the motion and may issue a discharge without holding a hearing.

(d) In addition to satisfying the requirements of paragraph (b) or (c), any motion for discharge, whether filed before or after confirmation, must also state that there is no proceeding pending in which the debtor might be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A), or liable for a debt of the kind described in 11 U.S.C. § 522(q)(1)(B), and there is no reason to believe that 11 U.S.C. § 522(q)(1) might apply to the debtor (11 U.S.C. §1141(d)(5)(c)).

(e) This rule applies only to cases filed on or after October 17, 2005.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

Pursuant to Order Amending Local Bankruptcy Rules dated May 11, 2009, this new rule became effective immediately.

B-4008-1
Discharge and Reaffirmation Hearings

(a) The court will not hold hearings concerning any reaffirmation agreement unless a motion to do so, signed by the debtor and, if the debtor is represented by counsel, debtor's counsel, is filed with the court.

(b) A motion for a hearing concerning any reaffirmation agreement shall be filed as a separate document and not incorporated into any other filing.

Commentary (1994)

This rule is designed to eliminate the discharge/reaffirmation hearing unless the court is required to approve the agreement (pro se debtor) or a party to the agreement would like to have one held. This will allow the court, should it desire to do so, to avoid giving a speech, containing belated warnings to people who would rather not have to listen. Authority for making the hearing optional is found in Rule 4008 which provides that the court "may" hold the hearing. Furthermore, the Tenth Circuit has recently recognized that the debtor may waive the hearing, by failing to appear. In re Sweet, 954 F.2d 610 (10th Cir. 1992), aff'g 116 B.R. 283 (Bankr. N.D. Ok. 1990).

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Adopting Interim Bankruptcy Rules and Amending Local Bankruptcy Rules dated October 14, 2005, this rule was revised to better implement the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.

B-4008-2
Rescission of Reaffirmation Agreements

(a) Court approval of the rescission of a reaffirmation agreement is not required.

(b) Should a debtor choose to rescind a reaffirmation agreement with any creditor, notice of rescission shall be given to the creditor at the address set forth in the reaffirmation agreement and, if known, to creditor's counsel within the time required and a copy thereof filed with the court.

(c) The failure to comply with paragraph (b) will not affect the validity of a rescission which otherwise complies with 11 U.S.C. § 524(c)(4).

Commentary (1994)

This rule is designed to eliminate motions, timely or otherwise, for the rescission of reaffirmation agreements by restating what §524(c)(4) already says. Court approval of the rescission is not necessary. All that is needed is "notice of rescission to the holder" of the claim within the time required. 11 U.S.C. §524(c)(4). Thus, notice of the rescission is either good or not, depending upon when it is given, regardless of whether the bankruptcy court acts upon it. Arguably, the notice need not even be filed with the court, although doing so might help the parties independently establish when it was given, should there be a dispute concerning its timeliness.

The need to serve counsel and file with the court are, arguably, requirements beyond those specified in §524 (as is the stated address). Accordingly, paragraph (c) has been added to ensure that an otherwise proper rescission is not invalidated due to a failure to comply with the requirements of this rule.

B-4008-3
Extension of Deadline for Filing Reaffirmation Agreements

(a) An order deferring the entry of discharge or extending the deadline for filing complaints objecting to discharge shall also operate as a similar extension of the deadline for filing reaffirmation agreements.

(b) An order extending the deadline for filing reaffirmation agreements, if entered prior to discharge, shall also operate to defer the entry of discharge until the day after the extended deadline.

Commentary

The proposed rule addresses the problem caused by the fact that two different deadlines for reaffirmation agreements are found at two different places. Section 524(c)(1) requires the agreement to be "made before the granting of the discharge," while Bankruptcy Rule 4008(a) requires the agreement to "be filed no later than 60 days after the first date set for the meeting of creditors," which is usually the deadline for objecting to discharge. Both deadlines can be extended but unless they are kept together problems can arise. The entry of discharge is often deferred to facilitate negotiating reaffirmation agreements, but unless the deadline for filing such agreements is also extended they will be untimely under Rule 4008(a), creating uncertainties as to their validity. If the deadline for filing reaffirmation agreements is extended, without a similar extension or deferral of the discharge, the agreement may not be made prior to the granting of discharge, making it untimely and unenforceable under § 524(a)(1). Frequently motions to extend these deadlines will address only one of them – usually the entry of discharge – not both of them, leading to problems which may or may not be solvable. The proposed rule will prevent that from happening by keeping the deadline for entry of discharge and the deadline for filing reaffirmation agreements together, insofar as it is possible to do so.

HISTORICAL AND REGULATORY NOTES

This new rule was adopted pursuant to Order Amending Local Bankruptcy Rules dated November 2, 2016.

B-5004-1
Reassignment Upon Recusal

If for any reason it should become necessary for a judge to be disqualified or recused from a case, contested matter or adversary proceeding assigned to that judge, the case, contested matter or adversary proceeding shall be sent to the Chief Bankruptcy Judge of the district for reassignment to any other judge who is not also disqualified. If the Chief Bankruptcy Judge is disqualified or recused from either deciding or reassigning such a case, contested matter or adversary proceeding, the case, contested matter or adversary proceeding shall be sent to the judge who is next senior in service on the bench and who is not also disqualified or recused for reassignment.

B-5005-1
Mandatory Electronic Case Filing (ECF)

(a) Effective July 1, 2005, any attorney who files any paper or appears in more than five (5) cases in a calendar year, regardless of when the case was originally commenced, shall file all documents electronically through the court's ECF system. The failure to do so may result in the noncomplying document being stricken and/or the imposition of other appropriate sanctions. For purposes of this rule, the calendar year will begin on January 1 of each year.

(b) All ECF Users shall maintain an active email address to which the court will electronically send notices and all ECF Users shall promptly advise the court of any change to that address.

HISTORICAL AND REGULATORY NOTES

By Order Making Technical Amendments to Local Bankruptcy Rules dated July 7, 2015, this rule was amended to the word "document" to "paper."

Pursuant to Order Amending Local Bankruptcy Rule dated August 20, 2013, this rule was amended to include the requirement that all ECF users shall maintain an active email address with the court.

Pursuant to General Order 2005-01 dated April 28, 2005, this rule was amended to reflect the change in the threshold number from twenty-five (25) to five (5).

Pursuant to Order Amending Local Bankruptcy Rules dated January 15, 2004, this new rule was adopted, which renumbered then existing Rule B-5005-1 as B-5005-2; and renumbered then existing Rule B-5005-2 as B-5005-3.

B-5005-2
Form and Style Requirements

(a) The following format requirements apply to all papers submitted for filing, whether in paper or electronic format:

(1) They shall be plainly typewritten or printed and double spaced, except for quoted material.

(2) The title must be set out on the first page.

(3) Each page shall be consecutively numbered.

(4) All papers must be clearly legible.

(b) For filings submitted in paper format:

(1) They shall be flat and unfolded.

(2) They shall be on white paper of good quality, 8½" x 11" in size, printed on one side of the paper only.

(3) They shall have no covers or backs and shall be fastened together at the top left corner and at no other place.

(4) If the filer wishes to receive a file-stamped copy of any paper document which is not presented for filing in person, they shall provide a self-addressed, stamped envelope of adequate size and postage.

(c) For filings submitted electronically:

(1) No paper submitted electronically may contain any watermarks, embedded links or hyperlinks relating to websites promoting commercial products except when relevant to the matter addressed in the filing. The failure to comply with this prohibition may result in the imposition of appropriate sanctions.

(2) All papers submitted electronically shall comply with the technical requirements of the courts' Electronic Case Filing system.

(d) The originally signed paper copy of all documents submitted under oath or penalties of perjury shall be retained by the filing attorney for a least three years following the closing of the case by the court. Examples of such documents include, but are not limited to, affidavits, bankruptcy petitions, lists, schedules, statements, and amendments thereto. Such originally signed documents shall be produced upon request. The failure to do so may result in the

imposition of sanctions, on the court's own initiative or upon the motion of the case trustee, United States trustee, United States Attorney, or other appropriate party.

(e) Fax and email filings are not permitted and will not be accepted. If such transmissions are received, they shall be of no effect and will be ignored.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated May 5, 2011, this rule was amended to reorganize the rule to specify requirements relating to paper and electronic filings and to incorporate parts of abrogated Rule 5005-3.

By Order Amending Local Bankruptcy Rules dated December 22, 2006, this rule was amended to delete paragraph (b) which pertained to computer generated versions of Official Forms and paragraph (c) which pertained to the number of paper copies presented for filing; and to redesignate the remaining paragraph (d) as paragraph (b).

This rule was previously numbered as Rule 5005-1 until January 15, 2004, when a new Rule 5005-1 became effective, renumbering this rule as Rule 5005-2.

By Order Amending Local Bankruptcy Rules dated October 28, 2003, paragraph (c)(2) of this rule (then Rule 5005-1) was deleted, and paragraph (c)(1) was re-designated as paragraph (c).

By Second Order Amending Local Bankruptcy Rule B-5005-1 dated September 24, 2002, paragraph (a) and paragraph (c)(2) of this rule (then Rule 5005-1) were amended to conform procedures to electronic case filing requirements.

Pursuant to General Order 2002-01 dated August 27, 2002, this rule (then Rule 5005-1) was amended to conform procedures to electronic case filing requirements.

By Order Amending Local Rules dated April 30, 2001, this rule (then Rule 5005-1) was revised effective June 4, 2001.

B-5005-3
Requirements and Place of Filing

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated May 5, 2011, this rule was abrogated.

By Order Amending Local Bankruptcy Rules dated November 30, 2007, paragraph (b) of this rule was abrogated.

This rule was previously numbered as Rule 5005-2 until January 15, 2004, when a new Rule 5005-1 became effective, renumbering this rule as Rule 5005-3.

By Order Amending Local Bankruptcy Rules dated October 28, 2003, paragraph (d) of this rule (then Rule 5005-2) was amended in accordance with electronic filing and paragraph (e) was abrogated.

Pursuant to General Order 2003-02 dated April 28, 2003, paragraphs (a) and (b) of this rule (then Rule 5005-2) were amended to require filings in the proper division within the district.

Pursuant to General Order 2003-01 dated April 28, 2003, paragraph (f) of this rule (then Rule 5005-2) was amended to prohibit fax filings.

Pursuant to General Order 2002-01 dated August 27, 2002, this rule (then Rule 5005-2) was amended to conform procedures to electronic case filing requirements.

B-5071-1
Continuances

(a) A request to continue, reschedule, postpone or cancel any matter scheduled before the court shall be made by motion, demonstrating good cause, or by stipulation of all parties involved. Whether the request or stipulation is granted, and upon what terms and conditions, if any, is in the discretion of the court.

(b) A request to continue, reschedule, postpone or cancel based upon a prior conflict shall specifically describe the conflict and must be filed no later than ten (10) days after the issuance of the notice or order scheduling the matter sought to be continued.

(c) Requests to continue, reschedule, or relocate a § 341 meeting shall be directed to the United States trustee or, if a trustee has been designated, to the trustee. Whether the request is granted is in the discretion of the United States trustee or the trustee.

(d) A motion to postpone an evidentiary hearing on account of the absence of evidence shall be made only upon affidavit, showing the materiality of the evidence expected to be obtained; that due diligence has been used to obtain it; where the evidence may be. If the motion is for an absent witness, the affidavit must show the name and residence of the witness, if known; the probability of procuring the testimony within a reasonable time and that the absence has not been procured by the act or connivance of the party, or by others at the party's request, or with his or her knowledge or consent, the facts that the party believes to be true, and that the party is unable to prove such facts by any other witness whose testimony can be as readily procured. If the adverse party will stipulate to the content of the evidence that would have been elicited at trial from the absent document or witness, the trial shall not be postponed. In the event of such a stipulation, the parties shall have the right to contest the stipulated evidence to the same extent as if the absent document or witness were available at trial.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated June 18, 2010, this rule was amended to change the time computation in paragraph (b).

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-5072-1
Courtroom and Courthouse Decorum

HISTORICAL AND REGULATORY NOTES

Abrogated May 21, 2012, by Order Amending Local Bankruptcy Rules.

B-5081-1
Payment by Check, Credit Card and Returned Checks

(a) No personal or business checks or credit cards will be accepted from debtors while the case is pending.

(b) In the event that any check or draft received by the clerk is returned for any reason, including but not limited to insufficient funds, closed account, etc., no further checks or drafts will be accepted from the maker unless the clerk is directed by the judge, after written application of the maker, to do so.

(c) Whenever a check or draft is returned for any reason, the returned check fee specified by the Judicial Conference shall be paid in full, in collected funds, in addition to the amount specified on the returned instrument, before the maker may apply for an order directing the clerk to accept checks or drafts.

B-6004-1
Sales Outside the Ordinary Course of Business

(a) A motion to sell property of the bankruptcy estate outside the ordinary course of business shall be served upon the United States trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), and all entities that can be discovered through a reasonably diligent inquiry holding liens upon or having interests in the property to be sold.

(b) Notice of the motion must be given to all creditors and parties in interest, unless the court orders otherwise, in addition to service of the motion itself as required by paragraph (a).

(c) In the event the motion is granted, within seven (7) days following the sale the trustee or debtor-in-possession shall file or cause to be filed the report of sale required by Fed. R. Bankr. P. 6004(f)(1). The report of sale shall be served upon the parties identified in paragraph (a) and any objectors.

(d) The proceeds of the sale shall not be disbursed, except pursuant to court order following an appropriate motion upon notice to all creditors and parties in interest, in accordance with Local Bankruptcy Rule B-2002-2.

Commentary (1994)

This rule attempts to clarify who should receive a copy of any motion for sale outside the ordinary course of business, particularly for a sale free and clear of liens. It is designed to ensure that certain parties, those most likely to be interested it was going on, not only receive notice of the motion but the motion as well.

Paragraph (c) is designated to clarify the report of sale and establishes a time limit for it to be filed - although the seven (7) days allotted may be more liberal than the "on completion of a sale" stated in Rule 6004(f)(1). It also provides for the dissemination of this report to those most likely to be interested in the outcome of the sale.

Paragraph (d) in conjunction with paragraph (c) is designed to separate the somewhat ministerial function of reporting upon a sale from the most significant distribution of the sale proceeds. The court is not required to approve the resulting sale - what happens to the sale proceeds, however is another matter.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated August 31, 2012, this rule was amended to clarify that motions to disburse sale proceeds are subject to Local Bankruptcy Rule B-2002-2.

B-6006-1
Extensions of Time to Assume or Reject Executory Contracts

(a) Motions for an extension of the time within which to assume or reject an executory contract shall be filed prior to the expiration of the date to be extended and served upon all parties to the contract, the United States trustee, any trustee, the debtor and debtor's counsel, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d).

(b) At a minimum, the motion shall identify the contract for which an extension is being requested and the identity of all parties thereto and shall also state the cause for the requested extension, and the date to which the time is to be extended.

HISTORICAL AND REGULATORY NOTES

This rule was amended to conform with current practices pursuant to Order Amending Local Rules dated December 7, 2001, with an effective date of January 1, 2002.

B-6007-1
Trustee's Notice of Abandonment

(a) A trustee's or debtor-in-possession's notice of abandonment, served pursuant to 11 U.S.C. § 554(a) and Rule 6007(a), (not a motion to abandon filed by a party in interest pursuant to 11 U.S.C. § 554(b) and Rule 6007(b)) shall:

(1) identify the property to be abandoned;

(2) state the reason for the proposed abandonment; and

(3) state the date by which objections are to be filed, which shall be no less than 14 days from the date the notice is served, and where objections should be filed.

Except as authorized by local bankruptcy rule B-2002-3 or an order of the court, the notice shall be served upon all creditors and parties in interest and due proof thereof filed with the court.

(b) A no asset report is not a notice of abandonment.

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated September 11, 2009, this new rule became effective immediately.

B-7007-1
Motion Practice; Length and Form of Briefs

(a) Any motion filed within a contested matter or an adversary proceeding (*e.g.*, motions filed pursuant to Fed. R. Bankr. P. 5011(b), 7012, 7037, and 7056) shall be accompanied by a separate supporting brief. Unless the court orders otherwise, the opposing party shall have thirty (30) days after service of the motion and initial brief within which to serve and file a response. The moving party shall have fourteen (14) days after service of any response within which to serve and file a reply. Time shall be computed as provided in Fed. R. Bankr. P. 9006. Extensions of time shall only be upon order of the court, for good cause shown. The failure to respond or reply within the time required will be deemed a waiver of the opportunity to do so and may subject the motion to a ruling without further submissions.

(b) Except by permission of the court, no brief shall exceed twenty-five (25) pages in length (exclusive of any pages containing a table of contents, table of authorities, and appendices), and no reply brief shall exceed fifteen (15) pages. Permission to file briefs in excess of these page limitations will be granted only upon motion supported by extraordinary and compelling reasons.

Briefs exceeding twenty-five (25) pages in length (exclusive of any pages containing the table of contents, table of authorities, and appendices) shall contain (a) a table of contents with page references; (b) a statement of issues; and (c) a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.

(c) A party citing a decision, statute, or regulation that is not available on Westlaw or Lexis/Nexis shall furnish a copy to the court and other parties.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

By Order Amending Local Rules dated April 30, 2001, this rule was revised to conform with current practices, effective June 4, 2001.

B-7007-2
Oral Argument on Motions

(a) Any motion filed within an adversary proceeding or a contested matter may be determined by the court without argument or hearing, following the expiration of the time for any response or reply provided for by these rules.

(b) A request for oral argument shall be filed separately and served along with any brief, response, or reply. The request shall specifically identify the purpose of the request and estimate the time reasonably required for any argument. The granting of any request for oral argument shall be discretionary with the court.

(c) The court may, on its own initiative, schedule any motion for oral argument or a hearing.

B-7015-1
Amended Pleadings

(a) Except by leave of court, any amendment to a pleading in an adversary proceeding, whether submitted as a matter of course or in connection with a motion to amend, must reproduce the entire pleading and may not incorporate any prior pleading by reference or interlineation.

(b) A motion to amend any pleading filed in an adversary proceeding shall attach a copy of the proposed amended pleading to the motion. The original of the amended pleading shall be filed at the same time as the motion to amend.

B-7016-1
Pre-Trial Procedure

(a) The court, upon its own initiative or upon the request of a party in interest, may schedule any adversary proceeding, contested matter or other dispute for a pre-trial conference.

(b) The requirements of Fed. R. Bankr. P. 7016 shall apply to all adversary proceedings, contested matters and other disputes scheduled for a pre-trial conference.

(c) As a result of the pre-trial conference, the court may direct the parties to file a joint proposed pre-trial order, which, unless notified to the contrary, shall identify or contain:

(1) a statement concerning the court's subject matter jurisdiction which shall also state whether or not the parties consent to the bankruptcy judge hearing and determining the matter and entering any final judgment or orders therein;

(2) a statement identifying the pleadings, motions, objections or other requests upon which the matter is at issue;

(3) the status of any pending motion filed within the adversary proceeding, contested matter, or other dispute;

(4) a separate statement by each party specifically identifying the theory of each claim or defense and a summary of the facts which each party will endeavor to prove in support thereof;

(5) stipulations as to any and all relevant and undisputed facts;

(6) a statement identifying the contested facts, if any;

(7) a statement identifying the contested legal issues, if any;

(8) a list of the exhibits which each party will offer into evidence at trial, except those to be used solely for impeachment or rebuttal, together with a stipulation concerning which, if any, exhibits may be received into evidence without further proof;

(9) a list of the names of the witnesses each party anticipates calling at trial, except those to be called solely for impeachment or rebuttal. The witness list shall specify the general qualifications of any witness who is to be called as an expert; and

(10) the estimated amount of time required for trial.

(d) The parties shall exchange copies of any exhibits listed in the pre-trial order on or before the date the pre-trial order is filed with the court. If no pre-trial order is required, exhibits shall be exchanged no later than fourteen (14) days prior to trial.

(e) In any non-core matter in which all parties have not consented to the bankruptcy judge hearing and determining the issue and entering any final judgment or orders thereon, each party shall file along with any joint proposed pre-trial order proposed findings of fact and conclusions of law, including citations for each conclusion of law, if available.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-7023-1
Designation of "Class Action" in Caption

(a) In any case sought to be maintained as a class action, the complaint shall bear next to its caption the legend "Complaint -- Class Action." The complaint shall also contain a reference to the portion or portions of Rule 23, Federal Rules of Civil Procedure, under which it is claimed that the suit is properly maintained as a class action.

(b) Unless it is not practicable within the meaning of Rule 23(c)(1) of the Federal Rules of Civil Procedure to do so, a person seeking certification of a class action shall file a motion seeking class certification within ninety (90) days of the filing of a complaint brought as a class action. In ruling upon such a motion, the court may allow the action to be maintained as a class action, may disallow the action to be so maintained, or may order postponement of the determination pending discovery or other such preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the court for renewal of the motion.

(c) The provisions of this Rule shall apply, with appropriate adaptations, to any counterclaim or crossclaim alleged to be brought for or against a class.

B-7024-1
Procedure for Notification of Any Claim of Unconstitutionality

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated May 5, 2011, this rule was abrogated to conform the local bankruptcy rules to revisions in Federal Rule of Civil Procedure 5.1 and Local Rule 5.1.1 of the United States District Court for the Northern District of Indiana.

B-7026-1
Form of Interrogatories, Requests for Production and Requests for Admission

(a) The party propounding written interrogatories, requests for production of documents or things, or requests for admission, shall number each such interrogatory or request sequentially. The party answering, responding or objecting to such interrogatories or requests shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response or objection thereto, and shall number each such response to correspond with the number assigned to the request.

(b) No party shall serve on any other party more than thirty (30) requests for admission without leave of court. Requests relating to the authenticity or genuineness of documents are not subject to this limitation. Any party desiring to serve additional requests for admission shall file a written motion setting forth the proposed additional requests for admission and the reason(s) for their use.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Rules dated April 30, 2001, this rule was revised to conform with current practices, effective June 4, 2001.

B-7026-2
Requests for Filing of Discovery Materials

On its own motion or upon the request of a party in interest and for cause shown, the court may order that discovery materials in any adversary proceeding or contested matter which would not otherwise be filed, be filed, distributed or otherwise made available to parties in interest.

Commentary (1994)

This rule provides a mechanism by which discovery materials not filed with the court may be made available to the parties who may also have an interest in reviewing the information.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Rules dated April 30, 2001, then existing Rule 7026-2 was abrogated and Rule 7026-3 was renumbered as Rule 7026-2.

B-7037-1
Informal Conference to Settle Discovery Disputes

The court may deny any discovery motion (except those involving *pro se* litigants) unless the motion is accompanied by the certification required to be made under Rules 26(c)(1), 37(a)(1), and 37(d)(1)(B) of the Federal Rules of Civil Procedure. The certification shall be filed as a separate document and shall, in addition to the information required under the appropriate Federal Rule, also recite the date, time, and place of the conference or attempted conference and the names of all persons participating therein. If counsel for any party advises the court in writing that opposing counsel has refused or delayed meeting and discussing the problems covered in this Rule, the court may take such action as is appropriate to avoid unreasonable delay.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated September 11, 2009, this rule was amended to reflect updated Federal Rules of Civil Procedure.

By Order Amending Local Rules dated April 30, 2001, this rule was revised to conform with current practices, effective June 4, 2001.

B-7038-1
Jury Trial of Right

The provisions of Rule 38(b), (c), and (d) of the Federal Rules of Civil Procedure apply to adversary proceedings.

B-7041-1
Failure to Prosecute

Any contested matter or adversary proceeding in which no action has been taken for a period of sixty (60) days may be dismissed due to the lack of prosecution, with judgment for costs, if any, following twenty-one (21) days notice given by the court to counsel of record or, in the case of a *pro se* party, to the party unless, for good cause shown, the court orders otherwise.

B-7041-2
Dismissal of Objections to Discharge

(a) A motion for the voluntary dismissal of a complaint containing an objection to a debtor's discharge, pursuant to 11 U.S.C. § 727, or a stipulation between the parties for the dismissal of such a complaint shall be served upon the United States trustee and any trustee.

(b) The motion or stipulation shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of any agreement concerning the dismissal.

(c) Unless the United States trustee, the trustee or another entity seeks to intervene or to be substituted for the plaintiff in the proceeding or objects to the dismissal within twenty-one (21) days following service of the motion, the court may grant the motion, upon such terms and conditions as it deems proper, without further notice or hearing.

Commentary (1994)

This rule is designed to implement the restrictions of Rule 7041 concerning the voluntary dismissal of §727 complaints and provide for notice of the motion to the United States Trustee, any trustee and other parties, as well as establishing a time within which they should react if they believe dismissal is, for any reason, improper.

Paragraph (b) is designed to ensure that there is full disclosure of any agreement or understanding between the parties in return for the dismissal and, thus, alert the court to any improper and, arguably, illegal bargain. *See* 18 U.S.C. §152.

The language of paragraph (c), allowing dismissal upon such terms as the court deems proper, is taken directly from Rule 7041 and will allow the court to excise or void any improper agreement for dismissal.

B-7054-1
Costs

HISTORICAL AND REGULATORY NOTES

Abrogated December 8, 2017, by Order Amending Local Bankruptcy Rules.

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B-7056-1
Motions for Summary Judgment

(a) In addition to complying with the requirements of N.D. Ind. L.B.R. B-7007-1, all motions for summary judgment shall be accompanied by a "Statement of Material Facts" which shall either be filed separately or as part of the movant's initial brief. The "Statement of Material Facts" shall identify those facts as to which the moving party contends there is no genuine issue and shall be supported by appropriate citations to discovery responses, depositions, affidavits, and other admissible evidence. Any party opposing the motion shall, within thirty (30) days of the date the motion is served upon it, serve and file a "Statement of Genuine Issues" setting forth all material facts as to which it is contended there exists a genuine issue, supported with appropriate citations to discovery responses, affidavits, depositions or other admissible evidence, together with any affidavits or other documentary material controverting the movant's position. The "Statement of Genuine Issues" may either be filed separately or as part of the responsive brief. In determining the motion for summary judgment, the court will assume that the facts as claimed and supported by admissible evidence by the moving party are admitted to exist without controversy, except to the extent that such facts are controverted in the "Statement of Genuine Issues" filed in opposition to the motion, as supported by the depositions, discovery responses, affidavits and other admissible evidence on file.

(b) A party opposing a summary judgment motion may file a surreply brief only if the movant cites new evidence in the reply or objects to the admissibility of the evidence cited in the non-movant's response to the motion. The surreply must be filed within 7 days after the movant serves the reply and must be limited to the new evidence and objections.

(c) If a party is proceeding pro se and an opposing party files a motion for summary judgment, counsel for the moving party shall also simultaneously serve all unrepresented parties using Local Bankruptcy Form (LBF) B-7056-1. The failure to do so may result in denial of the motion for summary judgment, without prejudice to resubmission.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated July 7, 2015, this rule was amended to add a new paragraph requiring the moving party to serve unrepresented parties and establishing a new form LBF B-7056-1.

By Order Amending Local Bankruptcy Rules dated December 18, 2012, this rule was amended to redesignate a paragraph and to add a new paragraph concerning surreply briefs.

LBF B-7056-1 (07/2015)

[INSERT APPROPRIATE CASE OR ADVERSARY PROCEEDING CAPTION]
NOTICE OF MOTION FOR SUMMARY JUDGMENT

A motion for summary judgment has been filed asking to have this matter decided against you, in whole or in part, without a trial. The motion claims there are no genuine issues of material fact and is based on the evidence presented in the affidavits and/or documents referenced in the motion or the argument that you are not able to offer admissible evidence in support of your position. The material facts set forth in the motion and accompanying affidavits/documents may be accepted as true unless you submit affidavits and/or other documentary evidence contradicting those assertions, along with a "statement of genuine issues" identifying the facts you dispute and any brief arguing your position.

Your response to the motion must be filed within thirty days from the date the motion was served[1] and comply with Rule 56 of the Federal Rules of Civil Procedure and local bankruptcy rule B-7056-1. Your response must include a "statement of genuine issues" identifying the facts you dispute and be accompanied by affidavits or other admissible evidence supporting your factual assertions. If you do not respond within the time required the court may rule against you. If you need more time to respond, you must file a motion asking the court for an extension of the deadline before it expires. The court may – but is not required to – give you more time.

Copies of Rule 56 of the Federal Rules of Civil Procedure and local bankruptcy rule B-7056-1 (N.D. Ind. L.B.R. B-7056-1) accompany this notice.

Date: _____

Signed: _____
name:
address:
telephone:

[1] The date of service can be determined from the certificate of service accompanying the motion or by reviewing the docket at the clerk's office.

B-7065-1
Motions for Preliminary Injunctions and Temporary Restraining Orders

The court will consider a request for a preliminary injunction or a temporary restraining order only when:

(1) the party seeking the relief files a separate verified motion for such relief;

(2) the verified motion establishes the willingness of the moving party to provide security as the court might deem proper;

(3) the moving party files an accompanying brief in support of the requested relief; and

(4) in the case of a temporary restraining order, the further requirements of Federal Rule of Civil Procedure 65(b) are fully complied with.

B-7067-1
Deposits

(a) **Deposit into Registry Account and Other Interest-Bearing Accounts.** All funds deposited into the court pursuant to Rule 67 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2041 shall be deposited into an interest-bearing Registry Account maintained by the clerk. The Order of Deposit should direct the clerk, without further order of the court, to deduct from the income earned on the investment a fee not exceeding the fee authorized from time to time by the Judicial Conference of the United States, as soon as such fee becomes available for deduction from the investment income.

(b) **Orders Directing Investments of Funds by Clerk of Court**. A party may petition the court for an Order of Investment which directs the clerk to hold the funds in a form of interest-bearing account other than the Registry Account. Whenever a party seeks a court order for money to be invested by the clerk into an interest-bearing account, the party shall personally deliver a proposed order to the clerk, who will inspect the order for proper form, content, and compliance with this rule. The clerk shall immediately forward the proposed order to the judge for whom the order was prepared.

Any order which, pursuant to 28 U.S.C. § 2041, directs the clerk to invest funds in an interest-bearing account or instrument shall include the following:

(1) The amount to be invested;

(2) The name of the financial institution in which the money will be invested;

(3) The type of instrument or account;

(4) The term of the investment; and

(5) If the deposit and/or interest received during the time of investment will exceed the FDIC Insurance amount, then the petitioning party shall obtain a collateral pledge by the financial institution for the remainder of the investment. The collateral pledge shall be approved by the judge.

B-7069-1
Enforcement of Judgments

HISTORICAL AND REGULATORY NOTES

Abrogated May 21, 2012, by Order Amending Local Bankruptcy Rules.

B-9002-1
Meaning of Words in Local Rules

In construing any local rules of the district court made applicable to proceedings before the bankruptcy court, all references to the court shall be deemed to be a reference to the bankruptcy court, all references to the district judge or magistrate judge shall be deemed to be a reference to the bankruptcy judge, all references to the clerk shall be deemed to be a reference to the clerk of the bankruptcy court, and all references to the Federal Rules of Civil Procedure shall be deemed to be a reference to the corresponding Federal Rules of Bankruptcy Procedure.

B-9006-1
Initial Enlargement of Time

(a) In any adversary proceeding in which a party wishes to obtain an initial enlargement of time, not exceeding thirty (30) days, within which to file a responsive pleading and in any adversary proceeding or contested matter in which a party wishes to obtain an initial enlargement of time, not exceeding thirty (30) days, within which to file a response to a written request for discovery or request for admission, the party shall contact counsel for the opposing party and solicit opposing counsel's agreement to the extension. In the event opposing counsel does not object to the extension, the party requesting the extension shall document the lack of objection and file notice of the extension. No further filings or action by the court shall be required for the extension.

(b) In the event the opposing party is not represented by counsel or opposing counsel objects to the request for extension, the party seeking the extension shall file a formal request for extension and, unless the opposing party is *pro se*, shall recite in the request the unsuccessful effort to obtain agreement.

(c) Any motion or notice filed pursuant to this rule shall state the date such response is due and the date to which time is to be enlarged.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated July 21, 2006, this rule was amended to delete the requirement to document the lack of objection by letter to opposing counsel.

B-9010-1
Attorneys

(a) The bar of this court shall consist of those persons admitted to practice by the District Court for the Northern District of Indiana.

(b) The chair of any committee established pursuant to 11 U.S.C. § 705 or § 1102 may appear and speak for the committee at any non-evidentiary hearing in a contested matter. Such a committee must be represented by an attorney at any evidentiary hearing and in all adversary proceedings.

(c) A person not a member of the bar of this court shall not be permitted to practice in this court or before any officer thereof as an attorney, unless (1) such person appears on his or her own behalf as a party, or (2) such person is admitted to practice in any other United States Court or the highest court of any state and is, on application to this court, granted leave to appear in a specific action *pro hac vice* and tenders the required fee (which is one-half of the fee required for admission to the bar of the United States District Court for the Northern District of Indiana) by a check payable to the "Clerk, United States District Court" or (3) such person appears as attorney for the United States.

(d) The provisions of N.D. Ind. L.R. 83-5(a)(3), (d), and (e) are applicable to all matters pending in the bankruptcy court.

(e) In all matters and proceedings before this court, only natural persons may appear and represent themselves. All other entities shall be represented by an attorney. For the purposes of filing a proof of claim, participating in a meeting conducted pursuant to 11 U.S.C. § 341 or a reaffirmation agreement, a creditor need not be represented by or appear through an attorney.

(f) Paraprofessionals may not appear at a § 341 meeting on behalf of a debtor but may appear and question a debtor on behalf of a creditor.

(g) Persons appearing *pro hac vice* pursuant to subsection (c) of this rule shall certify that they have read the Standards for Professional Conduct within the Seventh Federal Judicial Circuit and the local rules of this court and shall abide by them in all cases in this court. This certification shall accompany the motion to appear *pro hac vice* on the form available from the clerk of court. The failure to make the required certification may result in the motion being denied.

Commentary (1994)

This rule is primarily derived from L.D.R. 83.5 and is based upon the recognition that, by statute, the bankruptcy court is "a unit of the district court" not an entirely separate court.

Paragraph (b) is based upon current Rule B-101(h) and is intended to more clearly express the intent of that rule.

Paragraph (h), [now paragraph (f)], is derived from current Local Rule B-101(g), but adds reaffirmation agreements to the exception for the necessity of counsel.

Paragraph (i), [now deleted], was added at the request of the bar in order to clarify the role of paralegals.

HISTORICAL AND REGULATORY NOTES

This rule was amended for technical numbering revisions pursuant to Order Amending Local Bankruptcy Rules dated May 21, 2012.

By Order Amending Local Bankruptcy Rules dated August 3, 2011, this rule was amended, effective immediately, to make a technical correction to the rule.

By Order Amending Local Bankruptcy Rules dated August 29, 2008, this rule was revised to add a provision relating to the procedure for obtaining pro hac vice admission to practice.

By Order Amending Local Rules dated April 30, 2001, this rule was revised to add language concerning the required fee to district court, effective June 4, 2001.

B-9010-2
Appearance and Withdrawal

(a) (1) Each attorney representing a party in interest, except an attorney signing a voluntary petition for relief or a complaint in an adversary proceeding, shall first file a separate formal written appearance clearly identifying the party or parties such attorney is representing, and the name, mailing address, telephone number, and e-mail address of the attorney filing it.

(2) A single appearance submitted on behalf of multiple attorneys is not permitted. Each attorney must file his or her own appearance separately. General appearances by a law firm are not permitted.

(3) An appearance must be filed as a separate document and may not be incorporated into any other pleading, motion, or request. See Local Bankruptcy Rule B-9013-1. An appearance incorporating a request for some type of relief or other action, e.g., an appearance and a request for notice, will be treated only as an appearance. Any other request joined with an appearance may be ignored by all parties.

(b) An appearance shall remain effective until withdrawn by order of the court.

(c) Separate appearances must be filed by each attorney in the main case and in any adversary proceeding in which that attorney is participating.

(d) For purposes of this rule, the granting of a motion for admission pro hac vice constitutes a written appearance in the case or proceeding in which the motion is filed.

(e) Upon filing an appearance in the main case, the attorney will be added to the matrix of creditors and will be entitled to be served with the notices, orders, motions, and other papers that are to be served upon all creditors and parties in interest.

(f) Any attorney desiring to withdraw an appearance shall file a verified application and notice requesting leave to do so. The application and notice shall be served upon the client and, if filed in the main case, the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), or, if filed in an adversary proceeding, all parties that have appeared in the matter. Unless accompanied or preceded by an appearance of other counsel, the application shall:

(1) specifically state the grounds or cause for withdrawal;

(2) be accompanied by satisfactory evidence that counsel has advised the client, in writing, of the reasons for and the intention to seek permission to withdraw at least seven (7) days prior to its filing; and

(3) unless the client has terminated counsel's services, contain a statement that any response,

objection, or comments to the application should be filed within fourteen (14) days.

Unless requested or ordered by the court, the court may rule upon the application without a hearing upon the expiration of the time for any response.

(g)) Separate applications to withdraw must be filed for the main case and each adversary proceeding in which the attorney has appeared. The withdrawal of an appearance in the main case will not constitute an order withdrawing an appearance in any pending adversary proceeding and an order withdrawing an appearance in any adversary proceeding will not constitute an order withdrawing an appearance in the main case or any other pending adversary proceeding.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 2, 2016, paragraph (f)(2) of this rule was amended to shorten the time period from 14 to 7 days.

By Order Amending Local Bankruptcy Rules dated October 29, 2010, this rule was amended effective immediately to require that each attorney file a separate individual appearance; to prohibit general appearances by a law firm; to clarify that any appearance incorporating any other request will be treated only as an appearance; and to clarify that the granting of a motion for admission pro hac vice satisfies the written appearance requirement.

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

By Order Amending Local Rules dated March 1, 2007, paragraph (a) of this rule was revised to delete the requirement that the appearance list the attorney's bar identification number and to add a requirement to list the attorney's e-mail address.

B-9011-1
Signing of Papers

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated October 28, 2003, this rule was abrogated.

B-9013-1
Motions Initiating Contested Matters and Other Requests for Relief

(a) Except as otherwise authorized by Federal Rule of Bankruptcy Procedure 6006, every application, motion, or other request for an order from the court, including motions initiating contested matters, shall be filed separately from any other request, except that requests for alternative relief may be filed together. All such requests shall be named in the caption, shall state with particularity the order or relief sought and the grounds for the motion.

(b) Motions seeking relief from the automatic stay or adequate protection may not be joined with any other request or objection except abandonment.

(c) The application, motion, or other request should be accompanied by a proposed form of order.

Commentary

Different types of relief can be subject to very different procedural requirements. Some must be set for hearing on notice to all creditors, others receive a hearing only if an objection is filed, and different deadlines apply to different requests. This rule avoids the confusion that will result if multiple requests for relief are combined in a single motion. It requires each request for relief to be filed separately from any other, unless alternative relief is sought.

In everyday life, choosing between alternatives often involves a choice between mutually exclusive options; you can go one way or the other, but not both. It is much the same with alternative relief. The court is asked to choose between available remedies; it may do one thing or the other, but not both. If both options could be selected, or if the court is asked to do more than one thing in a given situation, the relief sought is not alternative.

Requests for alternative relief will generally use the conjunction "or" in the motion's title or prayer, rather than the word "and," *i.e.*, "motion to convert or dismiss," not "motion to dismiss and objection to confirmation." In the event a movant is not certain whether alternative relief is being sought, separate motions should be filed. There is no penalty for filing separately.

Pursuant to Rule 9014(c), certain provisions applicable to adversary proceedings are incorporated into contested matters. Absent from provisions incorporated by Rule 9014(c) are Fed. R. Bankr. P. 7018, 7019, and 7020, which respectively reference Fed. R. Civ. P. 18, 19, and 20. It is clear from this omission that joinder of claims, and joinder of parties, are not contemplated in a contested matter. A contested matter is essentially a discrete action seeking one form of relief as to a single party.

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated May 21, 2012, this rule was amended for clarification and to add a commentary.

Pursuant to Order Amending Local Bankruptcy Rules dated November 30, 2007, paragraph (a) of this rule was amended to conform to the provisions of the amended national rules.

This rule was amended to conform with current practices pursuant to Order Amending Local Rules dated December 7, 2001, with an effective date of January 1, 2002.

By Order Amending Local Rules dated April 30, 2001, this rule was revised effective June 4, 2001.

B-9013-2
Service of Motions and Objections

(a) The party filing a motion, application or an objection is responsible for serving the motion, application or objection upon all entities entitled to receive it.

(b) Service of a motion or application upon the entities entitled to receive it is required in addition to service of any notice concerning the motion or application upon such entities.

(c) Except as provided in these rules or otherwise ordered by the court, all motions, applications, objections and other requests for relief shall be served upon the United States trustee, any trustee and counsel for the trustee, debtor and debtor's counsel, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), in addition to any other entity and its counsel upon whom the motion is required to be served by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

(d) With respect to service pursuant to Fed. R. Bankr. P. 7004(b)(4) and (5) -- either in an adversary proceeding under Fed. R. Bankr. P. 7001 or a contested matter under Fed. R. Bankr. P. 9014 -- the addresses of the departments, agencies and instrumentalities of the United States of America shall be designated as those stated in the list filed by the Office of the United States Attorney pursuant to N.D. Ind. L.B.R. B-1007-5(b).

Commentary (1994)

Paragraphs (a) and (b) are designed to eliminate the apparently increasingly prevalent and questionable practice of failing to serve certain motions upon the parties entitled to receive them and, instead, relying upon the subsequent "notice" to suffice. The Bankruptcy Rules are clear that certain entities are entitled to receive both the notice issued as a result of the motion and the underlying motion as well. The most logical entity upon whom the burden of serving the motion should be placed is the party seeking the relief. (Service of notice of the motion will be done either by the clerk or the moving party and this responsibility can be allocated by a separate order.)

The purpose of paragraph (c) is to try and identify a single place the various entities that are to be served. This listing is basically a summation of the Bankruptcy Rules' requirements for service.

B-9013-3
Service Upon Committees

(a) Where the court has authorized a committee which has been elected or appointed to employ counsel, service upon the committee shall be made by serving counsel and, if known, the chair of the committee.

(b) Where the court has not authorized a committee which has been elected or appointed to employ counsel, service upon the committee shall be made by serving each member thereof and, if such a committee is a committee of unsecured creditors, service shall also be made upon the entities included on any list required by Fed. R. Bankr. P. 1007(d).

Commentary (1994)

Many Bankruptcy Rules (and the proposed local rules) require motions and notices to be served upon court authorized committees. How this is accomplished (i.e. service upon every member, the committee chair, and/or counsel) is not specified in any detail and even Bankruptcy Rule 7004(b)(3) (service upon unincorporated associations) is somewhat lacking. Paragraphs (a) and (b) attempt to fill this gap by identifying how service is made depending upon whether or not the committee has been authorized to retain counsel.

One of the consequences of the recent revision of the Bankruptcy Rules is an increased importance given to the creditors included on the Rule 1007(d) list (20 largest unsecured creditors), in terms of the various papers that are to be served upon them. Service upon the 20 largest is not, however, necessary when an unsecured creditors committee has been authorized. In this instance, service upon the committee replaces service upon the 20 largest. In the Northern District of Indiana, committees, of any kind, are rare and active committees, even more so. When a committee of unsecured creditors does not actively participate in the proceeding, it is just as good as no committee whatsoever. Therefore, the rationale which justifies service upon an unsecured creditors committee fails. The last portion of paragraph (b) is based upon this reality. When a committee does not retain counsel, experience has shown that it generally will not actively participate in the bankruptcy. In this instance, the spirit of the Bankruptcy Rules is better served by requiring service upon the 20 largest unsecured creditors as well as upon the individual committee members. Since the committee is usually drawn from among the 20 largest, compliance with the rule will be no more burdensome than if a committee had never been appointed.

B-9013-4
Proof of Service

(a) In addition to identifying the pleading, motion or other paper served and showing the date upon which service was made, every proof of service or certificate of service shall state the name of every entity served and the address to which service was directed, together with the manner in which service was made. Where service is made through the court's ECF System, the manner of service and the address to which service was directed may be provided by identifying the individuals so served and stating that they were electronically served through the court's ECF System.

(b)(1) Proof of service by facsimile machine may be made by the person causing the paper to be transmitted. Such proof of service shall indicate the telephone number to which the paper was transmitted and the method of confirmation that the transmission was received.

(2) Proof of service by email may be made by the person causing the paper to be transmitted. Such proof of service shall indicate the email address to which the paper was transmitted and the method of confirmation that the transmission was received.

(c) Proof of service of all papers required or permitted to be served may be made by certificate of the person serving the same or by written acknowledgment of service, unless some other method of proof is expressly required by these rules or by the Federal Rules of Bankruptcy Procedure.

(d) The court may take no action with regard to any pleading, objection, motion or other paper required to be served upon any other party, including motions initiating contested matters, unless accompanied by a proper proof or certificate of service. Any such pleading, objection, motion or paper may be stricken, *sua sponte*, following seven (7) days notice.

Commentary

This rule does not authorize service by any particular manner. That is done by other rules and orders of the court. The rule merely specifies how proof of that service is to be made. Paragraph (b)(2) is new and specifies how proof of service by email is to be made. It is modeled on the original paragraph (b) which did the same thing for fax service. That paragraph has been re-designated (b)(1) to accommodate the new provision.

Commentary (1994)

Paragraph (a) merely states what is the proper practice given the diversity and variability of the entities the rules require to be served with various motions, notices, and other papers. It attempts to explicitly recognize that the "state certificate of service" so often encountered is neither suitable to nor proper for bankruptcy proceedings.

Paragraph (b) is based upon C.D.Cal.L.B.R. 10(3)(a).

Paragraph (c) is based upon proposed N.D.Ind.L.R. 5.1(e).

Paragraph (d) implements the requirements of paragraph (a) by publicly stating the consequences of an inadequate or absent proof of service.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated July 7, 2015, this rule was amended to add a new paragraph (b)(2) describing proof of service when service is made by email, re-designate the existing paragraph (b) as (b)(1), and add a commentary.

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

Pursuant to Order Amending Local Bankruptcy Rules dated October 28, 2003, paragraph (a) of this rule was amended to conform with electronic case filing requirements.

B-9014-1
Objections and Responses to Motions Initiating Contested Matters

(a) As to any matter in which the court may grant relief without a hearing in the absence of a timely objection, objections to the motion, application, or request shall contain a short, plain statement concerning the factual or legal basis for the objection. The failure to state a sufficient factual or legal basis for the objection may result in the objection being overruled without a hearing.

(b) Except as otherwise ordered by the court, as to any matter in which the court may grant relief only after a hearing, a party desiring to oppose the motion, application, or request shall, except for good cause shown, file and serve any objection no later than seven (7) days prior to the hearing. If such a hearing is scheduled upon less than fourteen (14) days notice, the objection or response shall be filed and served any time prior to or at the hearing. The objection or response shall be concise and direct, stating in short and plain terms the factual or legal basis for the objection and shall fairly meet the substance of the allegations contained in the motion, application, or request.

(c) The objections or responses required by paragraphs (a) and (b) above shall also be served upon the moving party or parties and the entities specified in N.D. Ind. L.B.R. B-9013-2(c).

Commentary (1994)

Paragraph (a) is designed to require any party objecting to a request for relief not only to object but also to explain why. This will allow the court, if it should choose to do so, to dispense with hearings on obviously insufficient objections. More often than not, these objections are filed by pro se parties. Often the "objection" is nothing more than a handwritten note on the clerk's notice stating, "I object." When these "objections" ultimately come before the court for a hearing, the objector generally fails to appear. The only result of the process is to delay proceedings, increase the congestion on the court's calendar and increase the costs of the proceeding, through the additional attorney fees incurred through attending a useless hearing. Since the rule uses the term "may" in connection with overruling an insufficient objection, the court retains the discretion to schedule the matter for a hearing, should that be its preference.

Paragraph (b) is designed to promote both judicial and fiscal economy. It is based upon Rule 9014 which authorizes the court to require an answer to a motion. Doing so will, hopefully expedite proceedings on the motion, by requiring the parties to make their respective positions known before the hearing takes place. The early availability of this information should result in a more focused argument and, if the matter requires further proceedings, may permit the court to dispense with the usual pre-trial conference, thereby accelerating the decisional process, reducing both calendar congestion and the parties' attorney fees.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated November 18, 2009, this rule was amended effective December 1, 2009, to conform with the time computation changes in the Federal Rules of Bankruptcy Procedure.

B-9014-2
Applicability of Certain Rules of the Federal Rules of Civil Procedure to Contested Matters

(a) The provisions of Rule 5(d) of the Federal Rules of Civil Procedure concerning the filing of discovery matters shall apply to contested matters.

(b) The provisions of Rule 16(f) of the Federal Rules of Civil Procedure shall apply to all contested matters.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Rules dated July 21, 2006, this rule was amended to make Rule 16(f) of the Federal Rules of Civil Procedure applicable to contested matters.

Pursuant to General Order 2005-01 dated April 28, 2005, paragraph (a) of this rule was deleted. The designation of the remaining paragraph as paragraph (b) was deleted.

This rule was amended pursuant to Order Amending Local Bankruptcy Rules dated June 23, 2004, which renamed the rule and added new paragraph (b).

This rule was amended pursuant to Order Amending Local Rules dated April 30, 2001, which renumbered then rule B-7026-4 to Rule B-9014-2 which opts out of disclosure requirements under FRCP 26.

B-9018-1
Filing Under Seal

(a) A motion to file papers under seal shall be accompanied by a brief in support thereof. ECF Users shall file this motion electronically.

(b) If the motion is granted, the papers ordered to be placed under seal shall be filed on paper with the clerk, and not electronically, along with a paper copy of the order granting the motion. The papers to be sealed shall be placed in a sealed envelope with a prominently marked cover sheet containing the case or proceeding caption, title of the paper, and the legend "Filed Under Seal."

(c) The clerk will maintain sealed papers in accordance with the court's internal procedures.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Rule dated August 20, 2013, this new rule was adopted to provide more specific procedural instruction.

B-9019-1
Stipulations and Settlements

When a case, adversary proceeding, contested matter, dispute, claim or controversy is settled, the parties shall promptly notify the court of the settlement or stipulation and, within the time required by the court, file an agreed judgment or order and, where appropriate, a motion to compromise which will be considered following notice to creditors in accordance with N.D. Ind. L.B.R. B-2002-2. The court may extend this time upon a showing of good cause. Failure to file the required judgment or stipulation may result in the dismissal of the pleading, motion, objection, or application upon which the matter was at issue.

HISTORICAL AND REGULATORY NOTES

Pursuant to Order Amending Local Bankruptcy Rules dated February 15, 2005, this rule was amended in accordance with Rule B-2002-2.

B-9019-2
Arbitration/Alternative Dispute Resolution

The court may, upon its own initiative, or upon the motion of a party, set any appropriate adversary proceeding or contested matter for a non-binding method of alternative dispute resolution. The parties may, however, agree to be bound by the results of any such alternative method of dispute resolution.

B-9023-1
Post Judgment Motions

(a) Any motion filed after the entry of a final judgment or order, whether filed pursuant to Fed. R. Bankr. P. 9023 or Fed. R. Bankr. P. 9024, shall be accompanied by a separate supporting brief and any appropriate affidavits or other materials in support thereof. The failure to submit a supporting brief will be deemed a waiver of the opportunity to do so.

(b) Unless otherwise ordered by the court, no response to the motion is required.

(c) The provisions of N.D. Ind. L.B.R. B-7007-2 (oral argument on motions) apply to post judgment motions.

Commentary (1994)

This rule will allow the court to tailor its response, and the need for an opposing party to respond, to post judgment motions based on the apparent significance of the motion itself. Motions which are clearly unwarranted, such as a 9023 motion which merely seeks to reargue a legal issue the court has already confronted and disposed of, can be dispensed without the need for a response or a hearing. If, however, the motion appears to have a degree of significance, the court will have the ability to require a response and, if appropriate, schedule a hearing.

B-9027-1
Remand of Removed Actions

(a) A motion to remand a claim or cause of action removed to the bankruptcy court, other than one based upon the lack of subject matter jurisdiction, shall be filed within the same time as a motion to remand actions which have been removed to the district court (*see e.g.* 28 U.S.C. § 1447(c)) and shall be served upon all other parties to the removed action.

(b) The provisions of N.D. Ind. L.B.R. B-7007-1(motion practice) and N.D. Ind. L.B.R. B-7007-2 (oral argument on motions) shall apply to motions to remand removed actions.

Commentary (1994)

This rule established a procedure for the timing and handling of motions seeking to remand removed actions. Unlike removal to the district court, neither the statutes nor the rules of procedure specifically establish a time limit within which motions to remand actions removed to the bankruptcy court must be filed. The Seventh Circuit has indicated, however, that §1447(c) applies. *See* Hernandez v. Bredegate, 943 F.2d 1223 (7th Cir. 1991).

Paragraph (b) merely incorporates the general local rules concerning briefs, response times, and hearing requests and makes them applicable to motions to remand.

B-9029-2
Limitation on Sanctions for Error as to Form

The court may sanction any attorney or person appearing *pro se* for violation of any local rule governing the form of pleadings and other papers filed with the court by the imposition of a fine not to exceed $1,000.00, or by ordering stricken, after notice and opportunity to be heard or to cure the defect, a paper which does not comply with these Rules. Local rules governing the form of pleadings and other papers filed with the court include, but are not limited to, those local rules regulating the paper size, the number of copies filed with the court, and the requirement of a special designation in the caption.

B-9070-1
Custody of Files and Exhibits

(a) **Custody During Pendency of Action**. After being marked for identification, models, diagrams, exhibits and material offered or admitted in evidence in any cause pending or tried in this court shall be placed in the custody of the clerk, unless otherwise ordered by the court, and shall not be withdrawn until after the time for appeal has run or the case is disposed of otherwise. Such items shall not be withdrawn until the final mandate of the reviewing court is filed in the office of the clerk and until the case is disposed of as to all issues, unless otherwise ordered.

(b) **Removal After Disposition of Action**. Subject to the provisions of subsections (a) and (d) hereof, unless otherwise ordered, all models, diagrams, exhibits or material placed in the custody of the clerk shall be removed from the clerk's office by the party offering them in evidence within ninety (90) days after the case is decided. In all cases in which an appeal is taken these items shall be removed within thirty (30) days after the mandate of the reviewing court is filed in the clerk's office and the case is disposed of as to all issues, unless otherwise ordered. At the time of removal a detailed receipt shall be given to the clerk and filed in the cause. No motion or order is required as a prerequisite to the removal of an exhibit pursuant to this rule.

(c) **Neglect to Remove**. Unless otherwise ordered by the court, if the parties or their attorneys shall neglect to remove models, diagrams, exhibits or material within thirty (30) days after notice from the clerk, the same shall be sold by the United States Marshal at public or private sale or otherwise disposed of as the court may direct. If sold, the proceeds, less the expense of sale, shall be paid into the registry of the court.

(d) **Withdrawal of Original Records and Papers**. Except as provided above with respect to the disposition of models and exhibits, no person shall withdraw any original pleading, paper, record, model or exhibit from the custody of the clerk or other officer of the court having custody thereof except upon order of a judge of this court.

HISTORICAL AND REGULATORY NOTES

By Order Amending Local Bankruptcy Rules dated December 22, 2006, this rule was amended to delete paragraph (d) concerning custody of contraband exhibits; and to redesignate paragraph (e) as paragraph (d).