United States Bankruptcy Court
District of Arizona

Local Rules of Bankruptcy Procedure for the District of Arizona

As Revised Through August 1, 2018

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Rule 1000-1. Prohibition of Bias

Participation in a case, both inside and outside the courtroom, shall be free from prejudice and bias. Everyone is entitled to fair and equal treatment by all Court staff, case participants and observers. No one shall act in a manner that can be reasonably interpreted as manifesting unfair prejudice or bias.

Rule 1001-1. General Scope and Definitions

(a) General Scope. The Local Rules supplement or, if permitted, modify the Federal Rules of Bankruptcy Procedure, as amended. They shall be construed to be consistent with such Rules to promote speedy and inexpensive litigation.

(b) Definitions. The definition of words and phrases in the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure govern their use in these Local Rules of Bankruptcy Procedure. The following words have the following meanings for purposes of these Local Rules of Bankruptcy Procedure:

(1) "Code" means the United States Bankruptcy Code.

(2) "Court" and "Bankruptcy Court" means the United States Bankruptcy Court for the District of Arizona.

(3) "Clerk" means the Clerk of the Bankruptcy Court.

(4) "BAP" means the United States Bankruptcy Appellate Panel of the Ninth Circuit.

(5) "District Court Clerk" means the Clerk of the District Court.

(6) "District Court" means the United States District Court for the District of Arizona.

(7) "FRBP" means the Federal Rules of Bankruptcy Procedure.

(8) "FRCP" means the Federal Rules of Civil Procedure.

(9) "Local Rules" or "LR" means the Local Rules of Bankruptcy Procedure for the District of Arizona, as adopted by the bankruptcy judges for this District for cases and proceedings pending before the Bankruptcy Court.

Notes 2018: LR amended to include different and additional definitions formerly found in LR 9001-1.

Rule 1002-1. Commencement of Chapter 11 Cases - Status Conferences

In cases filed under or converted to chapter 11, the Court will issue an order setting an initial status conference, at which counsel should be prepared to discuss the following:

(a) The nature of the debtor's operations and the factors leading to the filing of a chapter 11;

(b) Whether any professionals have been or will be employed by the debtor;

(c) Any unique issues regarding secured debt, employees, executory contracts, cash collateral, existing management and/or equity owners;

(d) A deadline for the filing of a plan and disclosure statement;

(e) A deadline for the filing of proofs of claims and interests;

(f) The status of debtor's post-petition operations;

(g) The status of any litigation involving the debtor; and

(h) If applicable, the additional requirements for a small business case.

Notes 2018: New LR adopted to formalize the practice of setting an initial status conference for each chapter 11 filing.

Rule 1005-1. Caption of Petition

(a) **Caption.** The caption of any petition must designate the Court as the United States Bankruptcy Court, District of Arizona.

(b) **Trade Name(s).** The caption for an individual petition or joint petition by a husband or wife must include, after the name(s) of the debtor(s), the name of any sole proprietorship operated by the debtor(s). The caption for a debtor that is not an individual must include, after the name of the debtor, any trade name(s) used by that entity, which shall be identified by the letters "d/b/a".

Notes 2018: LR was amended to add paragraph (b) calling for the bankruptcy petition to identify the name(s) of an individual debtor's sole proprietorship(s) and an entity debtor's trade names. LR 9004-1 contains other requirements for filing papers.

Rule 1005-2. Petition

(a) **Completeness.** The debtor must complete each section of the petition by answering all questions, providing all requested information, and marking all applicable boxes.

If the debtor(s) filed no prior bankruptcy cases, the Petition must state "None." The debtor's attorney must include an email address and, if the petitioner has an email address, the petitioner must include the email address below the signature.

(b) Corporations, partnerships, or similar entities must not be joined in one petition or in an individual's petition. Only individuals may file a petition under or convert a case to chapter 13.

Notes 2018: LR adds requirement for petitioner to list an email address to facilitate noticing.

Rule 1005-3. Business Chapter 7

(a) Notice of Filing. When an entity or a sole proprietorship files a chapter 7 bankruptcy, debtor must contact the chapter 7 trustee assigned to the case within 24 hours of receiving the trustee assignment.

(b) Information to be Provided. Debtor must provide the following information to the trustee (regardless of whether the Schedules and Statement of Financial Affairs have been filed):

(1) Business address;

(2) Location of all assets;

(3) Confirm whether business operations have ceased; and

(4) Contact information for principal, director, president, CEO, managing member, partner or other individuals in charge of operations and financial records.

(c) Turnover. Among other things, debtor must arrange for turnover of the following property and information to the trustee:

(1) Keys and passwords to access buildings, mail or post office boxes, computers; and

(2) Access to all bank accounts and all banking information.

Notes 2018: New LR ensures that a business ceases operations upon filing a chapter 7 bankruptcy case and all assets are turned over to the trustee assigned to the case as of the petition date.

Rule 1006-1. Filing Fees

(a) Petition Filing Fee/Installments.

(1) Payment of Filing Fee. If an individual debtor files a petition without payment of the full filing fee, the case will be dismissed without further notice unless within fourteen (14) days of the filing of the petition the debtor (a) pays the full filing fee, (b) files an application to pay the filing fee in installments accompanied by an initial payment of $80.00 or (c) files a fee waiver request.

(2) Installment Payments or Waiver. Only an individual debtor may file an application to pay the fee in installments and only an individual debtor in a chapter 7 case may file an application for waiver of the fee. If counsel represents a debtor, an application to pay in installments may only be filed after counsel discloses the compensation paid as required by FRBP 2016(b).

(b) Adversary Proceeding Filing Fee.

(1) The filing fee required by 28 U.S.C. § 1930(b) must be paid upon the filing of a complaint or the notice of removal initiating an adversary proceeding.

(2) When an adversary complaint is filed by a chapter 7 trustee, if there are insufficient estate funds, the trustee may request that the fee be deferred until the estate holds sufficient funds.

(3) Failure to pay the filing fee may result in dismissal of the adversary proceeding.

(c) Miscellaneous Proceeding Filing Fee.

(1) The fee required by 28 U.S.C. § 1930(b) must be paid to register a judgment entered by another bankruptcy court or to commence a miscellaneous proceeding.

(2) Failure to pay the fee will result in no further action being taken on the filing and the Clerk closing the miscellaneous proceeding after fourteen (14) days.

(d) Form of Payment.

(1) Except as provided in subsection (2), all filing fees and other court costs payable to the Clerk must be made by certified check or money order, or by check drawn on the account of an attorney admitted to practice before this Court or a business check of a process server or trustee and shall be made payable to "Clerk, U.S. Bankruptcy Court."

(2) For electronic filings by counsel, the fee must be paid by using counsel's credit or debit card on-line through the ECF Internet filing fee payment process no later than seventy-two (72) hours from the filing of the document. The Court may take no further action until the filing fee is paid. Failure to pay the filing fee constitutes cause for the Clerk to suspend the filer's ECF password until all outstanding fees are paid.

(3) The Clerk will assess a fee on any attorney, process server, or trustee whose check is dishonored. This fee must be paid within forty-eight (48) hours of notice of the dishonor. Check paying privileges will be revoked in the event of a failure to timely pay the fee or in the second instance of a dishonored check.

(e) Appellate Filing Fee. The fee must be paid to the Clerk at the time of the filing of the notice of appeal or cross-appeal. The fee incurred when the Circuit Court of Appeals accepts a direct appeal from the Court must be paid to the Clerk.

Notes 2018: Clarifies that in a represented case, the attorney is responsible for paying the filing fee. Makes clear that only individual debtors may pay filing fees in installments or obtain a fee waiver. Establishes new procedure specifying that an application to pay in installments by a debtor represented by counsel may be filed only after counsel files a FRBP 2016(b) disclosure. Increases the minimum installment payment from $50.00 to $80.00.

Rule 1007-1. Lists, Schedules and Statements

(a) Master Mailing List.

(1) A master mailing list must be filed with the petition in the format required by the Clerk. The Clerk may also require that the master mailing list be electronically submitted. Unless ordered otherwise, the master mailing list must include the names and addresses, including zip codes, of all creditors and equity security holders, in alphabetical order.

(2) When an addition or change is made to the master mailing list, the entire master mailing list must not be refiled, only a supplemental master mailing list, in the required format, containing the newly added or changed creditors shall be filed and electronically submitted.

(3) The debtor shall have seven (7) days from the filing of the petition to file a master mailing list that complies with the above requirements. If a master mailing list does not comply, the Clerk will immediately notify the debtor's attorney or debtor, if pro se. Failure to timely file a properly formatted master mailing list will be cause for dismissal of the petition without further notice or a hearing.

(b) List of 20 Largest Creditors. In a chapter 9 or chapter 11 case, the list of twenty largest unsecured creditors must include the creditors' phone and facsimile numbers and email addresses, if known.

(c) Declaration. Debtor must file with the Clerk an original Local Form No. 1007-1 Declaration of Electronic Filing verifying the petition, lists, schedules, statement of affairs and debtor's social security number. Failure to file the signed declaration within twenty-one (21) days after filing the petition or no later than seven (7) days after the schedules and statements are filed in the event of an extension will result in dismissal of the case without further notice.

(d) Statement of Social Security Number. Failure of an individual debtor to submit the Statement of Social Security Number required by FRBP 1007(f) within seven (7) days of the filing of the petition will be cause for dismissal of the petition. In place of submitting a Statement of Social Security Number, the attorney for the debtor may submit the debtor's social security number electronically when opening the case on CM/ECF and include in the Declaration re: Electronic Filing debtor's declaration that the social security number is true and correct.

(e) Statement that Means Test Does Not Apply. A chapter 7 individual debtor whose debts are not primarily consumer debts must file a statement to that effect contemporaneous with the schedules and statements.

(f) Payment Advices. An individual debtor must file Local Form No. 1007-2 Declaration of Evidence of Payments available on the Court's website to comply with Code § 521(a)(1)(B)(iv).

(g) Declaration of Debtor without an Attorney. If a debtor is not represented by counsel, the debtor must file a completed Local Form No. 1007-3 Declaration Under Penalty of Perjury for Debtors Without an Attorney available on the Court's website. This form must be filed within fourteen (14) days after the petition is filed.

Notes 2018: To assist the Court in identifying undisclosed bankruptcy petition preparers, new subsection (g) requires pro se debtors to file a form Declaration concerning whether they paid anyone to assist in completing their bankruptcy documents, and if so, who they paid and how much they paid.

Rule 1015-1. Joint Administration/Consolidation

(a) Transfer of Related Cases. Whenever more than one bankruptcy case is filed for related debtor entities or the cases are otherwise related, counsel may file a motion to transfer the assignment of the cases to a single judge. The motion to transfer must (1) specify the reasons for transfer, (2) be filed in the lower numbered case only, and (3) identify the other cases to be assigned by case name and number. The judge assigned the lower numbered case will rule on the motion.

(b) Joint Administration/Substantive Consolidation. A motion for joint administration or for substantive consolidation must include a request to transfer the assignment of the cases if the cases are not all assigned to one judge. If joint administration is ordered, all subsequent filings must designate if it applies to all debtors or a specific debtor. If substantive consolidation is ordered, all filings must be made in the designated case.

(c) Filings after Joint Administration. All pleadings must be filed in the designated case except schedules, statements of financial affairs, proofs of claims or interests and Monthly Operating Reports.

Notes 2018: Amendments clarify filing procedures in jointly administered and substantively consolidated cases.

Rule 1017-1. Dismissal of Case

(a) Notice of Potential Dismissal. Notice of the potential dismissal of a case for failure to timely file the schedules, statements or chapter 12 or 13 plan will be given in the notice of meeting of creditors.

(b) Dismissal Without Further Notice. Failure of the debtor to timely file the documents required by the FRBP or the Local Rules or to appear at the meeting of creditors is cause for dismissal of the case. Notwithstanding Code § 521(i)(1), no case shall be dismissed except upon the entry of an order.

(c) Motion to Dismiss by Chapter 7 Debtor.

(1) Motion. A debtor's motion to dismiss a case must state:

(A) whether the case has been previously converted from another chapter and,

(B) if there are any pending motions to convert or dismiss with prejudice.

(2) Service. The motion must be served on the case trustee, the United States Trustee and all creditors.

(3) Objection. An objection must be filed in accordance with LR 9013-1. If an objection is filed, the debtor must schedule a hearing, giving notice to the objecting party, the trustee and the United States Trustee, unless ordered otherwise by the Court.

(4) No Objection. Upon the filing of a certificate of service and of no objection, the Court may enter an order dismissing the case.

(d) Motions to Dismiss an Individual Debtor Case Under Code § 521(i)(2).

(1) Motion. A motion filed by a non-debtor under Code § 521(i)(2) must be filed and served in compliance with LR 9013-1. The motion must state the missing or deficient items that are listed in Code § 521(a)(1)(A) and (a)(1)(B)(i) through (v).

(2) Objection. An objection to the motion must be filed in accordance with LR 9013-1. If an objection is filed, the movant must schedule a hearing, giving notice to the objecting party, the trustee and the United States Trustee, unless ordered otherwise by the Court.

(3) No Objection. Upon the filing of a certificate of service and of no objection, the Court may enter an order dismissing the case.

(e) Dismissal with Prejudice. Unless otherwise stated in the dismissal order, an order dismissing a case with prejudice means that the debtor is prohibited from filing another bankruptcy petition for 180 days from the date that the dismissal order is entered on the docket.

If the debtor files a subsequent bankruptcy petition within the 180-day period, the Clerk will assign the new case to the judge that entered the dismissal order, and notify the Court of the new case.

(f) Reinstatement.

(1) Motion. A case dismissed for failure of the debtor to timely file a required document, for failure to appear at the meeting of creditors or failure to pay a fee may be reinstated on motion of the debtor or any other party, under FRBP 9024.

(2) Debtor's Waiver of Deadlines. A debtor's motion must conform to Local Form No. 1017-1 Motion to Vacate Order of Dismissal and to Reinstate Case available on the Court's website. If a dismissed case has been closed, debtor must file a motion to reopen the case accompanied by the applicable fee.

(3) Service. The movant must serve the motion on the debtor, the case trustee, the United States Trustee and any interested party who has appeared in the case.

(4) Order. The Court may grant the motion on an ex parte basis or set a hearing on notice to interested parties.

Notes 2018: This rule was amended to comply with FRBP 1017 and 2002 and to formalize the reinstatement process. The LR requires debtors seeking to reinstate their cases to waive timeliness objections to certain complaints, motions, claims, etc. as a condition of reinstatement. A debtor's motion to reinstate must conform to Local Form No. 1017-1 Motion to Vacate Order of Dismissal and to Reinstate Case available on the Court's website.

Rule 1071-1. Places of Filing; Hearing Sites

(a) Places of Filing.

(1) Filing with Clerk. Petitions initiating cases under Title 11 shall be filed with the Clerk.

(2) Phoenix. Maricopa, Apache, Navajo, Coconino, Gila and Yavapai county cases should be filed with the Clerk's office in Phoenix.

(3) Tucson. Pima, Cochise, Santa Cruz, Graham, Pinal and Greenlee county cases should be filed with the Clerk's office in Tucson.

(4) Yuma. Yuma, La Paz and Mohave county cases should be filed with the Clerk's office in Phoenix or Tucson.

(b) Hearing Sites. Unless otherwise directed by the Court, all judicial proceedings in bankruptcy cases will be heard at the following sites:

(1) Phoenix. Cases originating from Apache, Gila, Maricopa, or Navajo counties shall be heard in Phoenix.

(2) Tucson. Cases originating from Cochise, Graham, Greenlee, Pima, Pinal, and Santa Cruz counties shall be heard in Tucson.

(3) Yuma. Cases originating in Yuma and La Paz counties shall be heard in Yuma.

(4) Flagstaff/Bullhead City. Cases originating in Coconino, Mohave, and Yavapai counties shall be heard in Flagstaff or Bullhead City as the Court may direct.

(c) Change of Hearing Site. Any party who wishes to change the hearing site of a particular judicial proceeding or an entire case must file a motion justifying the change of hearing site. Notwithstanding the provisions of this Local Rule, the Court reserves the right to assign a particular judicial proceeding or case to another site.

Notes 2018: Former LR 1071-1 Divisions – Bankruptcy Court and 1072-1 Places of Holding Court consolidated.

Rule 1073-1. Assignment of Cases

(a) New Petitions. Except as may be provided by General Order of the Court, new petitions commencing a case shall be assigned by the Clerk according to a random draw.

(b) Temporary Reassignments. A case assigned to a particular judge may be reassigned to another judge. The case will be reassigned by the Clerk to an available judge by random draw.

(c) Recusal. Upon recusal of the assigned judge of an entire case, an adversary proceeding, contested matter, or other single matter within a case, the recused case, proceeding or matter will be reassigned by the Clerk to another judge by random draw.

(d) Miscellaneous Assignments. Whenever action is required on a miscellaneous matter for which no bankruptcy case pending, the Clerk shall assign the matter by random draw.

(e) Voluntary Judicial Reassignments or Transfers. Notwithstanding this Local Rule, any judge may transfer any bankruptcy case, adversary proceeding, contested or other matter to another consenting judge.

(f) Reinstatements. Cases commenced by the reinstatement of a petition after dismissal may be reassigned to the judge to whom the case was previously assigned.

Notes 2018: Minor text changes.

Rule 2002-1. Notices to Creditors

(a) Motions and Applications. It shall be the responsibility and duty of the movant or the applicant to give the required notice of the hearing set on the motion or application or of the bar date by which an objection is to be filed if a hearing is not required.

(b) Discretion of the Court. Notwithstanding the provisions of this Local Rule, the Court may order that a particular party is responsible for notice.

(c) Forms of Notice. Whenever a motion or application is filed which is required to be noticed or requires a hearing, the movant or applicant must provide the form of notice.

(d) Service on Certain Interested Parties. In all cases, if any notice is not required to serve on all parties on the Master Mailing List or the Official Service List, but instead is required to be served only on certain interested parties, the moving party or applicant is responsible for service.

(e) Notice of Preferred Address. An entity and a notice provider, including the Bankruptcy Noticing Center, may agree that when the notice provider is directed by the Court to give a notice to such entity, the notice provider shall do so in the manner agreed to and at the address or addresses the entity supplies. That address is conclusively presumed to be a proper address for the notice. The notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law. The filing of a notice of preferred address under 11 U.S.C. § 342(f) by an entity directly with the Bankruptcy Noticing Center will constitute the filing of such a notice with the Court. Registration with the National Creditor Registration Service must be accomplished through the Bankruptcy Noticing Center that provides noticing services for the Bankruptcy Court. Forms and registration information is available at https://bankruptcynotices.uscourts.gov/.

(f) Certificate of Service. Service shall be evidenced by either a separate certificate of service or appended to the motion. If service is required to be made on the entire Master Mailing List or Official Service List, the most current version of the list must be attached as an exhibit to the certificate of service.

Notes 2018: Under LR 9076-1, service through the Electronic Court Filing (ECF) system is proper service for documents governed by FRCP 5(b)(3), FRBP 7005, FRBP 9014(b), and FRBP 9022.

Rule 2002-2. Procedures for 21-Day Negative Notice

(a) Negative Notice. A twenty-one (21) day negative notice procedure is appropriate in all matters described in LR 9013-1(k).

(b) Form of Notice. The moving party must serve a detailed notice of the motion on all parties entitled to notice. The notice must clearly state the requirement to respond within twenty-one (21) days after service of the notice and that the Court may grant the motion without further notice. The moving party must file a certificate of service in accordance with LR 2002-1(f).

(c) Time. Upon expiration of the time stated plus any additional days required under the rules for service, and if no objections have been filed, the moving party may file a certificate of service and of no objection and lodge an order granting the relief requested. The lodged order must conform to the relief requested in the motion. If an objection is filed, the movant must obtain a hearing date, serve notice of the hearing on all parties entitled to notice and file a certificate of service.

Notes 2018: New LR designed to streamline the process for negative notice.

Rule 2003-1. Meeting of Creditors

(a) Continuance, Consolidation or Change of Location. Any request to continue the meeting of creditors, to consolidate the meetings of creditors, or to change the location of the meeting of creditors shall be directed to the United States Trustee in chapter 9 or 11 cases or to the case trustee in chapter 7, 12 or 13 cases. If the trustee grants the continuance, the requesting party must immediately file a notice of the new date, time, and location, and serve that notice on all creditors and parties in interest on the master mailing list, and file a certificate of service.

(b) Waiver of Appearance. A motion to waive the appearance of a debtor must be filed with the Court and state with particularity the reasons for the waiver and include a statement that the United States Trustee in a chapter 9 or 11 case, or the case trustee in a chapter 7, 12, or 13 case, has been contacted and their position as to the waiver. The party filing a motion to waive the appearance of a debtor must serve it on the case trustee, United States Trustee, and any party that filed a notice of appearance. In addition to the motion, the debtor must provide to the United States Trustee in a chapter 9 or 11 case, or the case trustee in a chapter 7, 12 or 13 case, a copy of the debtor's identification documents along with a notarized affidavit attesting to the authenticity of the copied documents and the identity of the debtor. The case trustee and United States Trustee will have seven (7) days to respond to the motion. In the event the debtor has moved out of the jurisdiction and cannot attend the meeting of creditors, a waiver may not be granted in those cases where the debtor can appear at the local office of the United States Trustee.

Notes 2018: Language simplified.

Rule 2004-1. Time Limits to Compel Examination or Production of Documents

(a) Ex Parte Relief. Rule 2004 Orders are generally granted ex parte without time to respond. A party subject to a 2004 Order may timely file a Motion for Reconsideration or Motion for Protective Order.

(b) Examination; Production. A 2004 Order may not require the attendance at a deposition or production of documents on less than twenty-one (21) days' notice.

(c) Reducing or Extending Notice Period. Nothing in this rule prohibits parties from stipulating to an earlier or later examination or production or from shortening the notice period under LR 9013-1.

Notes 2018: New LR clarifying that 2004 Orders are subject to reconsideration and protective orders, and establishing a twenty-one (21) day notice period.

Rule 2014-1. Compensation of Professionals on a Fixed or Contingent Basis

(a) Reviewed for Reasonableness. All professional fees may be reviewed for reasonableness under Code § 330(a)(3) unless the application expressly states in the caption and the body of the document that the appointment is under § 328 and such provision is approved by the Court.

(b) Disclosure of Retention of Professionals. Any estate professional who retains another professional must promptly disclose such retention and if appropriate, file an application for employment or compensation. If the disclosures or application would cause privileged information or confidential litigation strategy to be revealed, the Court may enter appropriate orders to protect the information.

Notes 2018: Subpart (b) added requiring disclosure of retention of estate professional by other estate professionals or third parties, such as expert witnesses.

Rule 2015-1. Interim Reports

In all chapter 11 and 12 cases, on a monthly basis until the plan is confirmed or the case is converted or dismissed, the case trustee, debtor in possession, or other responsible person must file an interim operating report or reports in substantial compliance with such local forms as developed by the United States Trustee. In addition to the foregoing, the Court, upon motion, may require the filing of interim operating reports in any case.

Notes 2018: The current version of the United States Trustee's Guidelines for reports may be found at: http://www.azb.uscourts.gov/chapter-11-operating-reports.

Rule 2084-1. Scope and Definition - Chapter 13 Rules

(a) Scope. Local Rules 2084-1 through 2084-28 govern chapter 13 practice.

(b) Definitions. As used in these 2084 Rules:

(1) "arrearage" is the total amount past due to a secured creditor or lessor as of the petition date or, if applicable, as of the date of the filing of a plan;

(2) "conduit payment" is the regular contractual post-petition payment owed by a debtor to a real property creditor when the debtor is in default under

the terms of the mortgage as of the petition date or is in default after the petition date;

(3) "mortgage" is any form of perfected security interest in real property consensually granted by the debtor;

(4) "plan" means the original, amended, or modified plan;

(5) "real property creditor" is an entity holding a mortgage on real property, or a servicer of that mortgage, that is the principal residence of the debtor;

(6) "serve" means by regular mail, email or fax; and

(7) "trustee" means the chapter 13 trustee.

Notes 2017: Amended to include definitions relevant to chapter 13 practice.

Rule 2084-2. Filing Requirements

(a) Application to Pay Fee in Installments. Debtor's petition must be accompanied by the entire fee or an application to pay the filing fee in installments.

(b) Statement of Financial Affairs and Operating Reports. If the debtor is self-employed or engaged in business, the debtor must:

(1) Complete Part 11 of the Statement of Financial Affairs; and

(2) File monthly operating reports (using Local Form 2084-2) for each month – including the month in which the petition was filed – until plan confirmation.

(c) Dismissal for Failure to File Documents. All documents required by LR 1007-1, the FRBP, and Code § 521 must be timely filed absent a Court order granting an extension. Failure to file required documents in a timely manner may result in case dismissal without further notice or hearing.

Rule 2084-3. Attorney Fees

(a) Application for Flat Fee Payment in Plan. Any original, amended, or modified chapter 13 plan (collectively the "plan") must indicate on the plan form whether compensation by the attorney representing the debtor will be on a flat fee or hourly basis. In hourly fee cases, counsel must file a separate fee application as provided in section (c).

(b) Flat Fee Requirements. An attorney may elect to seek approval for fees in the order confirming the plan up to the amounts set forth in this Court's General Orders.

(1) **Entitlement to Flat Fee.** A flat fee is available if:

(A) The attorney agrees to provide all services listed in subsection (2);

(B) The plan provision entitled "Application for Payment of Administrative Expense" contains the attorney's election to accept a flat fee and identifies the amount of the flat fee;

(C) No party objects to the requested fees; and

(D) The Court confirms the plan or otherwise determines that the requested fees are reasonable.

(2) **Minimum Required Services.** Attorneys electing a flat fee must provide legal services through confirmation of a debtor's plan, and thereafter assist a debtor to obtain a discharge, including, but not limited to:

(A) Review of financial documents and information;

(B) Consultation, planning and advice, including office visits, email and telephone communications;

(C) Representation and advice regarding filing of pre-filing credit briefing;

(D) Preparation/filing of petition, schedules, statement of financial affairs, current monthly income, payment advice declaration, master mailing list, and declaration re: electronic filing;

(E) Preparation/filing of chapter 13 plan, plan analysis, and necessary amendments;

(F) Preparation/filing of bankruptcy notice in state court actions;

(G) Representation at §341 meeting of creditors, or continued meeting;

(H) Resolution of non-adversary proceeding creditor objections and any hearings related thereto;

(I) Review and analysis of creditor claims for potential objections, and attendance at related hearings;

(J) Objections to proofs of claim;

(K) Preparation/filing of affidavit of no income regarding tax claims;

(L) Notify client of unfiled tax return claims, follow up with taxing authority;

(M) Preparation of proposed order confirming plan with cover letter to trustee addressing each issue numerically;

(N) Preparation/filing of motion to extend (for each: schedules, stipulated order of confirmation, motion to dismiss);

(O) Preparation/filing of responses to pre-confirmation objections to dismissal;

(P) Preparation/filing of pre-confirmation stipulation to reinstate case;

(Q) Responses to motions for stay relief, and attendance at hearings;

(R) Drafting and mailing any necessary correspondence;

(S) Change of debtor address filings;

(T) Representation regarding filing of post-filing education course certificate;

(U) Representation regarding discharge eligibility certificate;

(V) Amendments to schedules; and

(W) Filing of Business Operating Statements, if applicable.

(3) **Effect of Flat Fee Election**. Unless ordered otherwise, an attorney's election to accept a flat fee is irrevocable and the Court will not approve additional compensation for work necessary to confirm the initial or amended plan or in cases where the Court confirms no plan. The application must state the amount of the flat fee and specify what services are to be rendered for the debtor. The flat fee election does not prohibit debtor's counsel from seeking additional flat fee or hourly compensation for services not mandated in subsection (2).

(c) **Separate Application**. Unless a flat fee has been elected, debtor's counsel must file a separate application for allowance of compensation and reimbursement of expenses in compliance with Code § 330 and FRBP 2016(a).

(d) **Attorney Disclosure**. The fees sought in the plan must be consistent in amount and description with counsel's FRBP 2016(b) disclosure.

(e) **Payment of Attorney's Fees.** Unless ordered otherwise and except for pre-petition retainers, all fees must be paid through the plan.

(f) **Payment on Dismissal**. If no party objects to counsel's fees disclosed in the plan, the Court may approve the fees in the dismissal order or in a separate order lodged by debtor's counsel.

Notes 2017: LR was amended to include the services required for flat fee compensation (previously delineated in former General Order 106).

Rule 2084-4. Plan

(a) Plan Requirements. Local Form 2084-4 (Chapter 13 Plan) must be used for all original, amended, or modified plans. All sections of the plan must be completed, or if not applicable marked with N/A or NONE. The treatment of all known secured or priority creditors must be disclosed in the plan. Varying provisions must be specific and not inconsistent with the Code, FRBP or Local Rules.

(b) Defaulted Residential Real Property Mortgage Payments. This subsection applies to all plans filed in this District when the debtor is in default under the terms of the mortgage as of the petition date or is in default after the petition date.

(1) Conduit Payments. Conduit payments must be made by the debtor to the trustee through the plan. A debtor may be excused from making conduit payments only by a Court order. If the debtor cures the arrearage, the debtor may seek to be excused from conduit payments by:

(A) Obtaining a Court order after notice to the trustee and all creditors; and

(B) Filing an amended or modified plan to eliminate future conduit payments.

(2) Debtor's Duties:

Unless the Court has entered an order allowing the debtor to make direct payment to the real property creditor:

(A) Debtor must complete the Mortgage Creditor Checklist (Local Form 2084-4A) and Authorization to Release Information (Local Form 2084-4B), and serve these Forms on the trustee – not the Court – within seven (7) days of the petition date.

(B) Debtor or debtor's counsel must serve on the trustee a copy of all correspondence, notices, statements, payment coupons, escrow

notices and default notices concerning any post-petition adjustment to the monthly mortgage payment or interest rate immediately on receipt or creation of that document.

(C) Debtor must include the regular post-petition payment amount owing to the real property creditor along with the trustee's fee of 10% in the regular plan payments.

(D) In the event the monthly conduit payment is changed due to either a change in escrow requirements or a change in an adjustable

interest rate, debtor must decrease or increase the plan payment by the same amount including the trustee's fee of 10%.

(3) Trustee's Duties:

(A) Under 28 U.S.C. § 586, the trustee is authorized to deduct from any payments collected under the plan the authorized percentage fee. The trustee's obligations under this Local Rule shall not render the trustee subject to any rules and regulations governing mortgage servicers.

(B) The trustee will disburse conduit payments regardless of whether the Court has confirmed a plan or the real property creditor has filed a proof of claim. The trustee is not required to distribute a partial payment to a real property creditor.

(C) If the trustee does not have sufficient funds to pay all required monthly conduit disbursements and any required adequate protection payments, the trustee will internally allocate the funds on a pro rata basis to the creditors entitled to disbursements. The trustee will retain the amount allocated to the conduit until there are sufficient funds to make a full conduit payment. The trustee is authorized to pay partial adequate protection payments.

(D) The trustee may rely on the debtor's representation of the amount of the conduit payment pending notice from the real property creditor of a different amount.

(E) Within twenty-eight (28) days after the trustee has received any notice of a change in the monthly conduit payment, the trustee will file a notice of the terms of the change with the Court and provide notice of that change to debtor, debtor's attorney and real property creditor. The notice will be treated as an amendment to the creditor's real property proof of claim and a modification to the debtor's plan under Code §§ 1323 or 1329. A party in interest will have an opportunity to object within twenty-one (21) days after the trustee files it. After the filing of the notice, the trustee is authorized to disburse the new monthly conduit payment. In the event of an objection to the notice, the objecting party must set the objection for hearing. Unless a Court order is entered sustaining the objection, the trustee is authorized to disburse the new monthly conduit payment.

(F) If the amount of the new conduit payment jeopardizes the feasibility of the plan, the trustee may file a motion to modify the plan or seek dismissal.

(G) The trustee shall comply with FRBP 3002.1(f).

(4) Real Property Creditor's Duties:

(A) The real property creditor must file a proof of claim (Official Form B410) with attachments, within seventy (70) days after the filing of the petition or conversion of the case.

(B) The real property creditor must comply with FRBP 3002.1 and file Official Form B410s-1 or Official Form B410s-2, as applicable.

(C) At least sixty (60) days before a change of name or address where payments are to be made, the real property creditor must file a notice of the change on the claims register, and serve the trustee, debtor and debtor's counsel. If a transfer of a claim is other than for security, the transferee must file official forms B2100A and B2100B, pay any applicable fee, and serve the official forms on the trustee, debtor, and debtor's counsel.

(D) The real property creditor must immediately serve the trustee with copies of correspondence, notices, statements, payment coupons, escrow notices and default notices concerning any change to the monthly payment or interest rate.

(E) Confirmation of a plan imposes an affirmative duty and legal obligation on the real property creditor to do all of the following:

(i) Apply payments on the arrearage in accordance with the plan. Unless ordered otherwise, the arrearage shall be deemed cured and paid in full upon the entry of the discharge order.

(ii) Treat the debtor's account as current upon confirmation of the plan, thereby precluding the imposition of late payment charges or other default-related fees based solely on any pre-petition default.

(iii) Apply the conduit payments to the month in which they were designated under the plan. Even if payments are placed into a suspense, forbearance or similar account, they will be deemed applied to the debt pursuant to this subsection.

(iv) The real property creditor cannot impose a late charge on conduit payments paid or tendered to the real property creditor during the contractual grace period. For purposes of determining whether a late charge may be imposed, a conduit payment tendered by the trustee must be applied to the post-petition installment payment then due.

(v) Conduit payments received timely by the trustee in accordance with these procedures shall be deemed payments made timely under the terms of the mortgage.

(F) The real property creditor must comply with FRBP 3002.1(g).

(5) Interim Mortgage Payments. The trustee may pay an amount not exceeding two full regular monthly payments inclusive of escrow deposits. These payments shall reimburse the real property creditor for post-petition delinquencies that may accrue until the trustee begins payments to that creditor. Once the trustee begins disbursements that include conduit payments, those payments shall constitute current payments on the mortgage regardless of the contractual due date.

(6) Effect of Plan Completion. If the debtor pays the arrearage, together with any interest as specified in the confirmation order, then all pre-petition defaults under the note and other loan documents will be deemed cured.

(c) Amended Plan. Other than the original plan, a plan filed before entry of a confirmation order must be titled "Amended Plan."

(d) Modified Plan. A plan filed after entry of a confirmation order must be titled as a "Modified Plan." A modified plan must conform with Local Form 2084-4, and account for disbursements made to creditors.

(e) Service of Plan. The debtor must file each plan using the applicable ECF filing event so that service can be effected by the Clerk or Bankruptcy Noticing Center.

(f) Dismissal for Failure to Properly File. If the debtor fails to file any plan, the trustee may lodge and serve a proposed dismissal order. If the deficiency is not cured or a hearing is not requested within fourteen (14) days of service of the proposed dismissal order, the Court may dismiss the case without further notice or a hearing.

Notes 2017: LR 2084-4 was substantially amended. It requires mortgage conduit payments for all chapter 13 cases where there are pre- or post-petition mortgage arrears. The amendments also require Local Form 2084-4 Plan to be used for all original, amended, or modified plans, clarifying that requests for moratorium are plan amendments or modifications and should be treated as such. Finally, the amendments set forth a procedure authorizing a trustee to lodge a dismissal order for failure to properly file plan.

Rule 2084-5. Tax Returns

Unless the Court grants a motion for an extension of time, if a debtor fails to comply with Code § 521(e) or (f), or § 1308(a), the trustee may lodge a dismissal order and the Court may summarily dismiss the case, or the trustee may file a motion to dismiss. The Notice of Commencement of Case issued by the Clerk's Office will include a statement that the Court may summarily dismiss the case for failure to file the required tax returns. If the debtor elects to provide a transcript in lieu of a return, the debtor must provide a "Tax Return Transcript" that includes a line item summary with substantially similar information as provided on the tax return.

Notes 2017: A simple account transcript that summarizes the financial status of the account, date of filing, assessments, and so forth, is not substantially similar to a tax return and fails to comply with Code § 521(e) or (f).

Rule 2084-6. Adequate Protection Payments

(a) Plan Proposal. A plan must include monthly adequate protection payments to creditors secured by depreciating personal property, beginning with month one. Unless ordered otherwise, the debtor shall not make adequate protection payments directly to any creditor or reduce the amount of the plan payments for any amount attributable to the adequate protection payments.

(b) Trustee Payment. The trustee is authorized to make pre-confirmation adequate protection payments to one or more secured creditors if:

(1) The plan provides for payment of the adequate protection payments;

(2) The debtor's Schedule D discloses the debt and describes the collateral;

(3) A secured proof of claim is filed, with documentation evidencing a perfected purchase money security interest in the personal property;

(4) The debtor or creditor sends a request to the trustee for payment of pre-confirmation adequate protection payments set forth in the plan; and

(5) The personal property collateral is depreciating and the amount of the adequate protection payments approximates the depreciation, which is generally at least 1% of the value of the property per month.

(c) Payment Without Prejudice. Payment of pre-confirmation adequate protection is without prejudice to the secured creditor's right to object to the plan, or seek a determination on the value of the secured claim or amount necessary to provide adequate protection.

(d) Timing of Payments. The trustee is entitled to take the percentage fee from all adequate protection payments received or collected. To the extent the trustee has funds on hand, the trustee must begin making pre-confirmation adequate protection payments if the trustee receives the request more than fourteen (14) days before the trustee's scheduled monthly distribution; otherwise the trustee will distribute adequate protection payments beginning with the next month's distribution. If the debtor has paid an insufficient amount to pay adequate protection payments in full, the trustee will pay the creditors pro rata, as modified by LR 2084-4(b)(3)(C).

(e) Payment on Confirmation. If the trustee has not made pre-confirmation adequate protection payments, the trustee will disburse the adequate protection payments after plan confirmation.

(f) Payment on Pre-Confirmation Dismissal. If the Court dismisses the case before plan confirmation, the trustee will pay the creditor any adequate protection payments

due and owing, in accordance with (b) above or Court Order, from funds received by the trustee under Code § 1326(a)(1)(A), less the statutory trustee's fee and allowed administrative expenses. If the trustee is required to pay adequate protection payments to more than one creditor but the trustee has insufficient funds to pay them in full, the trustee shall pay the creditors pro rata.

Rule 2084-7. Rescheduled or Continued Meeting of Creditors

For good cause, the trustee may reschedule or continue the meeting of creditors. If rescheduled, the trustee must request that the Clerk provide notice of the rescheduled meeting using the applicable ECF filing event so that service can be effected by the Clerk or Bankruptcy Noticing Center. If continued, the trustee will note the continued hearing date on the docket.

Notes 2017: This is new LR establishes notice procedures for a rescheduled or continued meeting of creditors and incorporates subsection (f) of former LR 2084-8 concerning continuance of a meeting. The amendments also clarify that rescheduling or continuing is at the trustee's discretion. See also LR 2003-1 Meeting of Creditors.

Rule 2084-8. Reserved

[RESERVED]

Notes 2017: LR 2084-8 Serving the Plan or Motion for Moratorium has been eliminated. Text concerning serving a plan has been incorporated into LR 2084-4 and text concerning continuing meeting of creditors has been incorporated into LR 2084-7.

Rule 2084-9. Creditor Objection to Plan

(a) Time for Filing Creditor Objection.

(1) The deadline for a creditor to file an objection to confirmation of a plan is fourteen (14) days after the date set for the first meeting of creditors or twenty-eight (28) days after service of the plan, whichever is later.

(2) In the event of a continued meeting of creditors or reinstatement of the case, the deadline for creditor objections to the plan will be reset to fourteen (14) days after the date of the continued meeting of creditors or twenty-eight (28) days after service of the plan, whichever is later.

(3) If the case is dismissed after the meeting of creditors but before the expiration of the deadline for creditor objections, and is thereinafter reinstated, the deadline for creditor objections will be the original objection deadline or fourteen (14) days from the date of reinstatement, whichever is later.

(b) Non-Objection Is Acceptance. The failure of a party in interest to timely file an objection to confirmation will constitute acceptance of the plan under Code § 1325 and a waiver of the requirement that the Court hold a confirmation hearing within forty-five (45) days after the date of the meeting of creditors under Code § 1324(b). Notice of the waiver of the 45-day confirmation hearing requirement and acceptance of the plan due to a creditor's failure to timely object must be conspicuous in the notice of date to file objections served on all creditors.

(c) Valuation Objection. A secured creditor who disagrees with the valuation of the creditor's collateral must file an objection containing the creditor's estimate of the value of the collateral, the method of determining the value, and the amount of claim that is secured. On request, the debtor must make the collateral available to the creditor for inspection and appraisal.

Notes 2017: The time deadlines have been amended and supplant those in FRBP 3015(f). Separate deadlines are established in the event of a continued meeting of creditors or case reinstatement and depending on whether a case is dismissed before or after a meeting of creditors is held.

Rule 2084-10. Trustee's Recommendation/Objection

(a) Trustee Recommendation/Objection. The trustee will file a recommendation/objection within twenty-eight (28) days after the last date set for creditor objections to a plan.

(b) Debtor Compliance or Dismissal. Within thirty (30) days after the trustee files the recommendation/objection, the debtor must either comply with the trustee's requests or file an objection and obtain a hearing date. The Court may summarily overrule any objection that fails to identify an issue or other impediment to plan confirmation. A request for additional time to respond does not constitute an objection. If the debtor does not timely comply, the trustee may file and serve a notice of intent to lodge a form of order dismissing the case, with a copy of the order attached. Ten (10) calendar days after serving the notice, the trustee may lodge an order dismissing the case without further notice or hearing.

(c) Dismissal If No Plan Payments. If the debtor makes no plan payments by the deadline for the trustee's recommendation/objection, the trustee may lodge an order dismissing the case rather than filing a recommendation/objection, and the Court may summarily dismiss the case.

Notes 2017: This LR does not alter the obligations or time periods set forth in LR 2084-15 concerning failure to make plan payments. Rule amended to provide that Court may summarily overrule any objection to dismissal that fails to identify an issue or other impediment to plan confirmation, incorporating former LR 2086-16.

Rule 2084-11. Plan Confirmation Hearings

(a) Trustee Need Not Attend. Unless ordered otherwise, the trustee need not attend hearings on creditor plan objections.

(b) Confirmation Hearing. The Court will set a confirmation hearing on any party in interest's request. The right to a confirmation hearing within forty-five (45) days of the creditors meeting is waived absent a timely filed objection and hearing request.

Rule 2084-12. Confirmation of Plan Without Hearing

Subject to LR 2084-13, the Court may confirm a plan without a hearing if: (1) there are no timely filed objections and the proposed order is signed by the trustee; or (2) the trustee and all objecting creditors sign a stipulated order.

Rule 2084-13. Order Confirming Plan

(a) Approval. Unless ordered otherwise, any order confirming a plan must be signed by the trustee and any objecting creditor or party.

(b) Form of Order. A plan confirmation order must be in a form approved by the trustee.

(c) Treatment of Docketed Claims. Debtor must ensure that the proposed confirmation order provides appropriate treatment for each secured or priority claim in the claims register.

(d) Notice of Submitting. When a proposed confirmation order is submitted to the trustee, debtor's counsel must file a notice of submission attaching a copy of the order.

(e) Trustee to Lodge Order Confirming. No later than forty-five (45) days after receipt of the proposed confirmation order, the trustee will (1) approve and lodge, or (2) file a notice of rejection. If the trustee approves the stipulated order, the trustee will file a notice of lodging attaching a copy of the order.

(f) Trustee Plan Payment. Unless ordered otherwise, the trustee must commence disbursements under the order confirming plan within forty-five (45) days after entry of the order.

Notes 2017: Amended LR requires counsel to file a notice of submission when the confirmation order is submitted to the trustee.

Rule 2084-14. Confirmation Status Hearing

Any party in interest may set a confirmation status hearing and provide notice to the debtor, debtor's counsel, the trustee and all parties in interest.

Notes 2017: This is a new LR.

Rule 2084-15. Trustee Motion to Dismiss

(a) Trustee Motion. A trustee's request to dismiss for debtor's failure to make timely plan payments or move the case toward confirmation may be summarily granted unless, within thirty (30) days after service of the motion, the debtor:

(1) Brings plan payments current or agrees with the trustee to a payment schedule;

(2) Files a detailed response and requests a hearing;

(3) Files and serves a conversion notice or motion; or

(4) Files and serves an amended or modified plan.

(b) Dismissal. The trustee may lodge a dismissal order and the Court may summarily grant the motion if the debtor fails to comply with (a).

Notes 2017: LR amended to clarify that the case may be summarily dismissed if the debtor fails to comply with this Local Rule.

Rule 2084-16. Reserved

[RESERVED]

Notes 2017: Former LR concerning a debtor's objection to a proposed dismissal order is incorporated into amended LR 2084-10.

Rule 2084-17. Vacating Dismissal Order

The Court may vacate a dismissal order without a hearing if the trustee consents. If the trustee does not consent, the debtor must set the matter for hearing.

Notes 2017: LR amended to clarify that the procedure to reinstate dismissed cases is to seek an order vacating the dismissal order.

Rule 2084-18. Plan Payments

The trustee may designate the form and where plan payments must be directed.

Rule 2084-19. Reserved

[RESERVED]

Notes 2017: This LR concerning filing secured or priority claims has been subsumed into amended LR 5005-4.

Rule 2084-20. Reserved

[RESERVED]

Rule 2084-21. Reserved

[RESERVED]

Rule 2084-22. Reserved

[RESERVED]

Rule 2084-23. Stay Relief to Secured Creditors

Unless ordered otherwise, or directed by the parties, the trustee will cease making payments on the secured claim of a creditor who has obtained stay relief.

Rule 2084-24. Reserved

[RESERVED]

Rule 2084-25. Sale of Property or Incurring New Debt

(a) Pre-confirmation Motion to Incur New Debt. With the trustee's consent, the debtor may, before plan confirmation, seek ex parte approval to incur new debt, or refinance an existing home loan. The debtor's motion must certify that:

(1) The debtor is current on plan payments and has provided the trustee with current income verification;

(2) The debtor is not in default under the terms of the chapter 13 plan;

(3) Schedules I and J – whether original or amended – were filed within the prior thirty (30) days showing that the debtor has the ability to pay all future plan payments, projected living and business expenses, and the new debt;

(4) The debt is for a reasonable amount; and

(5) Depending on the nature of the loan, that:

(A) Vehicle Loan:

(i) The new debt is a single loan to purchase a motor vehicle that is necessary for the maintenance or support of the debtor or a dependent of the debtor or, if the debtor is self-employed or engaged in business, is necessary for the continuation, preservation, and operation of the debtor's business; and

(ii) The only security for the new debt will be the motor vehicle.

(B) New Home Loan:

(i) The new debt is a single loan incurred to purchase a residence that is necessary for the maintenance or support of the debtor and debtor's family;

(ii) The only security for the new debt will be the residence; and

(iii) The monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the debtor's current monthly mortgage or rental payment, or a reasonable amount.

(C) Refinancing an Existing Home Loan:

(i) The new debt is a single loan incurred only to refinance existing debt encumbering the debtor's residence;

(ii) The only security for the new debt will be the residence;

(iii) All existing liens and security interests encumbering the residence will be paid from the proceeds of the new debt; and

(iv) The monthly payment (the principal and interest payment on account of the new debt plus all impounds, taxes, insurance, association fees, and bonds and other assessments) will not exceed the debtor's current monthly mortgage payment.

(b) Pre-Confirmation Sale. With the trustee's consent, the Court may approve an ex parte motion by the debtor to sell real or personal property with a value of $2,500 or more other than in the ordinary course of business. The debtor's motion must contain the following certification:

(1) The sale price represents a fair value for the subject property;

(2) All creditors with liens and security interests encumbering the subject property will be paid in full before or simultaneously with the transfer of title or possession to the buyer;

(3) All costs of sale, including escrow fees, title insurance, and broker's commissions, will be paid in full from the sale proceeds;

(4) The sale price is all cash;

(5) The debtor will not relinquish title to or possession of the property before payment in full of the purchase price;

(6) The sale is an arm's length transaction; and

(7) "Trading in" a vehicle as part of the purchase price for a new vehicle complies with the requirements of (4) and (5) of this subsection.

(c) Post-Confirmation Sale or Incurring New Debt. In a confirmed case, in lieu of obtaining a Court order, the debtor may request the trustee's written consent by providing all of the information required to be included in a Motion as authorized by subsections (a) & (b).

(d) Incurring Other New Debt and Transfers of Debt. If the trustee does not give consent or if the debtor wishes to incur new debt or transfer property on terms and conditions other than provided for in subsections (a) – (c), the debtor may file a motion, serve it on the trustee and those creditors who are entitled to notice, set the hearing on the Court's calendar with the notice required by Rule 2002 and LR 9014-1, and file a certificate of service.

Notes 2017: This Local Rule has been restructured to clarify the information required for the sale of property or incurring of new debt applies in both pre-confirmation ex parte motions by the debtor and post-confirmation requests for written authorization from the trustee.

Rule 2084-26. Debtor Completion of Plan Requirements; Discharge

Before the Court enters the debtor's discharge under Code § 1328(a), the debtor must provide to the trustee information required by Code § 1302(d)(1)(C) and file Local Form 2084-26.

Rule 2084-27. Transmission of Documents with Personally Identifiable Information to Trustee

Personally Identifiable Information as described in FRBP 9037 must be redacted in any document submitted to the trustee. The trustee may require debtors and counsel to use a specific method or portal, such as a website, for the transmission of documents that may contain personally identifiable information, including tax returns and bank statements.

Notes 2017: This is a new LR.

Rule 2084-28. Electronic Service on Chapter 13 Trustees

Electronic service of process on trustees must be accomplished in accordance with the instructions provided on the Court's website.

Notes 2017: This is a new LR.

Rule 2090-1. Admission to Practice; Appearance Before the Court; Self-Represented Parties

(a) Appearance by Attorney Admitted to Practice Before the District Court.

(1) Attorney. Only attorneys who are admitted to the Arizona State Bar and the District Court may appear before this Court, except as provided by this Rule. Unless ordered otherwise by the Court, counsel for the debtor is presumed to represent the debtor in all matters in the case except adversary proceedings.

(2) Entities. A non-individual entity must appear through counsel.

(b) Pro Hac Vice Appearance.

(1) Disqualification from Pro Hac Vice Appearance. Unless ordered otherwise, a nonresident attorney is ineligible for permission to appear pro hac vice if the applicant:

(A) Resides in Arizona;

(B) Is regularly employed in Arizona; or

(C) Is regularly engaged in the practice of law in Arizona.

(2) **Permission for Pro Hac Vice Appearance by Nonresident Attorney**. An attorney who is not a member of the bar of the District Court but who is a member in good standing of the bar of another United States District Court may, upon application and Court order, be permitted to appear and participate in a particular case.

(3) **Designation of Local Counsel.** Unless ordered otherwise, a nonresident attorney applying to appear pro hac vice must designate an attorney who is admitted to practice before this Court and maintains an office within this district as local counsel with whom the Court and parties may readily communicate regarding the case and upon whom documents may be served. The Court may require local counsel to appear at hearings.

(4) **Contents of Pro Hac Vice Application.** A nonresident attorney applying to appear pro hac vice must file an application signed under penalty of perjury and signed by designated local counsel stating:

(A) The attorney's principal office address, telephone number, facsimile number, email address, and city and state of principal residence;

(B) The courts that the attorney has been admitted to practice and the dates of admission;

(C) That the attorney is in good standing and eligible to practice in those courts;

(D) That the attorney is not currently suspended, disbarred or subject to disciplinary proceedings in any court;

(E) Whether the attorney has within three (3) years preceding the application date made any other application in this District that was denied, including the case name and number; and

(F) That the attorney is subject to the jurisdiction of this Court.

(c) **Attorneys for the United States or Another State.** An attorney who is ineligible for admission under District Court L.R.Civ. 83.1 or paragraph (b)(1), who is a member in good standing and eligible to practice before the bar of any state, territory or insular possession of the United States, may be granted leave to practice in the Court in any matter for any period during which such person is employed or retained by the United States or any other State or their agencies.

(d) **Student Practice.** Notwithstanding paragraph (a) above, a student enrolled in an American Bar Association accredited law school may represent parties in bankruptcy matters

or proceedings, and may appear on behalf of such parties, upon compliance with District Court L.R.Civ. 83.4 “Student Practice Rule”, subject to the following modifications:

(1) The requirements of District Court L.R.Civ. 83.4(b)(3) include the FRBP, the Local Rules, and the General Orders of this Court; and

(2) The consent form required by District Court L.R.Civ. 83.4(f)(5) must be filed with the Clerk of the Bankruptcy Court under the caption of the case in which the student intends to appear.

(e) Self-Represented Parties. Only individuals may represent themselves, with the exception of creditors filing proofs of claim and motions seeking to obtain funds deposited in the Registry of the Court. Individuals representing themselves are responsible for performing all duties imposed on counsel by the Code, the FRBP, the Local Rules, and applicable federal and state law. A self-represented individual may be sanctioned for failure to comply with bankruptcy law and rules of procedure.

Notes 2018: Language simplified and pro hac vice procedures updated. Federal and state government attorneys are excepted from this rule’s requirements.

Rule 2090-2. Bankruptcy Petition Preparers

(a) State Certification Required; Sanctions. Any bankruptcy petition preparer, as defined by Code § 110, that is not certified under the Rules of the Arizona Supreme Court who prepares a document for filing in this Court may be subject to sanctions. A certified bankruptcy petition preparer must provide their certification number, a business phone number, and an email address on any document prepared for filing.

(b) Disciplinary Authority of Court. A certified bankruptcy petition preparer who prepares documents for filing submits to the jurisdiction of the Court. If the Court or other party in interest has cause to believe that a bankruptcy petition preparer has engaged in unprofessional conduct, any party may seek and the Court may impose any of the following:

(1) Civil contempt;

(2) A reduction or refund of fees;

(3) An injunction against the bankruptcy petition preparer;

(4) A referral of the matter to the Arizona State Supreme Court Board of Licensed Document Preparers, or the State Bar of Arizona, if appropriate; and

(5) The imposition of any sanctions deemed appropriate.

Notes 2018: Includes new section concerning disciplinary authority of the Court.

Rule 3003-1. Filing Proof of Claim or Equity Security Interest in Chapter 9 and Chapter 11 Cases

(a) By Motion. A claims bar date may be requested and set by motion. An order setting the claims bar date may be entered by the Court without a hearing. The order must provide no less than 60 days notice and conform to Local Form No. 3003-1 Order Setting Claims Bar Date. Service of the order must comply with FRBP 2002(a)(7).

(b) By Order Setting Hearing on Disclosure Statement. Unless a bar date has previously been set, a claims bar date order must conform to Local Form No. 3003-2 Order Setting Initial Hearing on Approval of Disclosure Statement. Service of the order must comply with FRBP 2002(b).

Notes 2018: New LR establishing procedures for setting claims bar dates in Chapter 9 and Chapter 11 cases.

Rule 3007-1. Claims - Objections

(a) Requirements for Claim-Related Filings. All objections must state a specific basis for disallowing the claim under Code § 502. The caption for any claim-related filing must identify the claim number and the name of the claimant as set forth in the official claims register.

(b) Notice of Bar Date to Respond to Objection. A party filing an objection to a proof of claim that is not asserted as part of an adversary proceeding shall give notice that (1) the claimant has twenty-one (21) days from service of the objection to file and serve a response, and (2) if a response is not timely filed and served the objection may be sustained by the Court without further notice or hearing.

(c) Order Sustaining Objection. If a response is not timely filed and served, the objecting party may file a certificate of service and of no objection and lodge an order granting the relief requested.

(d) Hearing. If a response is timely filed and served, the objecting party must set a hearing, serve notice on the claimant and file a certificate of service.

Notes 2018: Amendment extends the notice period to respond to a claim objection from 14 to 21 days and clarifies negative notice procedures including requirement for certification of service and of no objection. Amendment also expands to all cases and all filings the duty to identify claimant and claim number in caption.

Rule 3018-1. Acceptance or Rejection of Plans

(a) Case Number. The case number must appear on each page of the ballot.

(b) Ballots Sent to Proponent. Ballots must be sent to the plan proponent, not filed with the court.

(c) Ballot Report; Cramdown Request. No later than three (3) business days before the hearing on the confirmation of the plan, the plan proponent must file a ballot report setting forth the results of the voting by class. The report must include a list of all creditors and equity security holders who have filed acceptances or rejections of the plan, the number of acceptances and rejection by class, with the dollar amount in claims and the amount of allowed interests. The report must identify any ballots received after the due date and whether they are included in the tally. If the plan proponent intends to proceed with confirmation under Bankruptcy Code § 1129(a) or (b), the ballot report must so state.

Notes 2018: Language simplified and requirements for Ballot Report modified.

Rule 4001-1. Automatic Stay - Relief From or Absence Of

(a) Form. A motion or stipulation for relief from the automatic stay or a motion for an order confirming the termination or absence of a stay must be dual captioned and contain a brief description of the property, and the nature of the relief requested.

(b) Residential Property Pre-Filing Certification. Unless the movant is seeking emergency relief under Code § 362(f), a motion seeking relief as to the debtor's residence must be accompanied by movant's certification that at least seven (7) days before filing the motion a letter was sent to debtor's counsel or the debtor, if unrepresented, and the matter was not resolved after sincere efforts.

(c) Service.

(1) Motions; Stipulations. A motion for stay relief or a stipulation for stay relief in lieu of a motion, the proposed form of order, and the notice required by subsection (d) must be promptly served by movant on:

(A) The debtor;

(B) The debtor's counsel;

(C) Any case trustee; and

(D) In a chapter 11 case, the twenty largest unsecured creditors listed by the debtor, or the unsecured creditors' committee and counsel for any committee appointed under the Code.

(2) Additional Notice. Movant must promptly serve the notice required by subsection (d) on:

(A) Any other party known to movant to claim an interest in the property that is the subject of the motion or stipulation; and

(B) Any other person or entity required by law or the Court.

(d) Notice of Motion or Stipulation. Contemporaneously with the motion or stipulation, movant will file and serve notice providing the details of the motion or stipulation and that if no objection is filed and served within fourteen (14) days of service, the motion or stipulation may be approved by the Court.

(e) Movant's Supporting Documents. Each motion or stipulation shall be supported by legible copies of:

(1) All documents that establish a valid, perfected security interest;

(2) All documents that movant contends establish a lack of adequate protection or equity in the property, including appraisals or summaries, currently in movant's possession or control that will be relied on at the final hearing; and

(3) Movant must disclose the date, time and place of any pending foreclosure or trustee sale.

(f) Entry of Order. If an objection to the motion or stipulation is not timely filed and served, the movant may file a certificate of service and of no objection and lodge an order granting the relief requested. The caption must contain a brief description of the property.

(g) Objection. An objection to the motion or stipulation for relief must be supported by specific facts and legible copies of all documents that the objecting party contends establish adequate protection or equity in property, including appraisals or summaries, currently in the objector's possession or control that will be relied on at the final hearing.

(h) Objection Procedure.

(1) If an objection is timely filed and served, the movant shall set a preliminary hearing, serve notice on the objector and file a certificate of service.

(2) Relief may be granted or denied at the preliminary hearing if the parties' affidavits, declarations and supporting documentation fail to establish the existence of a material issue of fact that requires an evidentiary hearing.

Notes 2018: Rule amended to incorporate former LR 4001-2 concerning motions to confirm termination or absence of automatic stay. A Stipulated Order Modifying the Automatic Stay does not incur a filing fee. The timing for entry of a lodged order under subsection (f) must comply with FRBP 9006(f).

Rule 4001-2. Cash Collateral

(a) Agreement or Motion for Immediate Use of Cash Collateral.

(1) Conspicuousness Requirement for Cash Collateral Agreements or Motions. In any agreement or motion seeking approval to use cash collateral under Code § 363, the first or second paragraph must conspicuously state whether any of the kinds of relief identified in LR 4001-4(b) are sought and, if so, identify the pages of the agreement or motion and the attached exhibits that support the relief.

(2) Interim Order.

(A) Agreement. Where the debtor and one or more parties with an interest in the cash collateral have agreed to the immediate use of cash collateral, the Court, based on the parties' stipulation, may enter an interim order approving the agreement.

(B) Motion. Where the debtor seeks to use cash collateral, without the consent of a secured creditor with an interest in the collateral, the Court, upon motion and after a hearing, may enter an interim order as authorized by FRBP 4001(b)(2).

(3) Service and Form of Notice.

(A) Agreement. The debtor must serve notice of any interim order and the bar date for objections on parties to the agreement, parties in interest, the United States Trustee, and entities entitled to notice under FRBP 4001(d). The notice must contain: (i) a detailed description of the terms of the agreement and the interim order, or in lieu of a detailed description, a copy of the agreement and interim order; (ii) the date by which objections must be filed and served, which shall be fourteen (14) days from the date the notice is served, unless ordered otherwise by the Court; and (iii) the names and addresses of those persons on whom objections must be served. The notice must state that, if no objection is timely filed and served, the Court may direct that the interim order shall continue in effect until a specified date or that the interim order shall become the operative order on the use of cash collateral until modified by the Court.

(B) Motion. The debtor must serve notice of any interim order, the bar date for objections, and the date of the final hearing on the motion for use of cash collateral on all parties in interest, the United States Trustee, and entities entitled to notice under FRBP 4001(b). The notice must contain: (i) a detailed description of the terms of the proposed use and the interim order; (ii) the date by which objections must be filed and served, which shall be no less than fourteen (14) days from the date the notice is served, unless ordered otherwise by the Court; (iii) the names and addresses of those persons upon whom objections must be served; and (iv) the date of the final hearing on the motion for use of cash collateral.

(4) Certificate of Service. The debtor must file a certificate of service evidencing compliance with this LR and FRBP 4001(d).

(5) **Procedure to Obtain a Hearing.** If a timely objection is filed and served, the debtor must obtain a hearing date and provide notice under this LR and FRBP 4001(d). If an expedited hearing is required, the moving party must file a motion in compliance with LR 9013-1(h) and obtain a hearing date from the courtroom deputy.

Notes 2018: LR was updated to add a provision for cash collateral motions and to clarify that first day cash collateral relief is controlled by LR 4001-4.

Rule 4001-4. First Day Motions

(a) **Advance Courtesy Copy to United States Trustee.** Unless ordered otherwise by the Court, for any motion for which an accelerated hearing or interim relief is sought within the first thirty (30) days after the filing of a chapter 11 petition (e.g., a "first day motion"), the debtor or movant must provide the United States Trustee at least twenty-four (24) hours' advance notice of the following: (i) the nature of the case; (ii) the relief sought; (iii) the proposed date for the hearing; and (iv) provide the United States Trustee courtesy copies of the motions in substantially final form. The United States Trustee shall keep advance notice and courtesy copies confidential until the case is filed.

(b) **Conspicuousness Requirements for First Day, Cash Collateral and Financing Motions.** Any motion for use of cash collateral under Code § 363 and any motion for post-petition financing under Code § 364 must conspicuously state in the first or second paragraph whether any of the following relief is sought and, if so, identify the pages of the motion and the attached exhibits that support the relief:

(a) Granting a prepetition creditor a lien or security interest in post-petition assets that the creditor would not otherwise have under its prepetition security agreement and applicable law, other than replacement liens in the same kind of collateral as the creditor had prepetition (i.e. "cross-collateralization");

(b) Findings, conclusions, holdings or orders: (i) about to the amount of a secured debt; (ii) validity; (iii) perfection; and/or (iv) scope of the security interests that purportedly affect the rights of the estate or anyone other than the debtor in possession and the secured creditor;

(c) Release, waiver or abandonment of claims, setoff rights, surcharge rights, avoidance actions and subordination actions against a secured creditor, or findings or stipulations that no such rights exist, that purportedly affect the rights of the estate or anyone other than the debtor in possession and the secured creditor;

(d) Granting of liens or security interests against rights and actions arising under Code §§ 544, 545, 547, 548 or 549;

(e) The use of funds derived from post-petition financing to pay all or part of a prepetition secured debt, or a provision deeming prepetition secured

debt to be post-petition secured debt, other than as permitted by Code § 552(b);

(f) Granting surcharge or "carve-out" rights to a debtor's professionals without providing equivalent treatment to professionals engaged by an authorized committee, or any restrictions on the surcharge or carve-out rights granted to such professionals other than the requirement for Court approval of the fees or expenses (e.g. restriction against investigating or pursuing causes of action against the secured creditor);

(g) Payment of prepetition wages, salary or other compensation to an employee in an amount exceeding the Code's priority amount, payment of any severance or vacation pay earned prepetition, or payment of any officer's, director's, insider's or equity holder's prepetition wages, salaries, commissions, benefits or consulting fees; and

(h) Priming any secured creditor under Code § 364(d) without that creditor's consent.

(c) Procedure to Obtain Hearing on First Day Matters. All first day motions must be set for hearing. A party may request an expedited hearing by filing a motion in compliance with LR 9013-1(h).

(d) Notice of Hearing on First Day Matters. The moving party is responsible for giving notice of any hearing.

(e) Limited Scope of Interim Relief. Absent extraordinary circumstances, the Court will not grant a motion that includes any of the provisions listed in subsection (b) above on an interim or accelerated basis, and such provisions may be excluded even from "final" orders issued after fourteen (14) days' notice, unless an official creditors' committee has had sufficient time to be appointed, organize, engage professional(s), and analyze and investigate the requested relief with the advice of such professional(s).

Notes 2018: LR updated to incorporate uniform procedures for first day matters, and provide clarification regarding hearing requirement, notice to United States Trustee's office, service of orders, and interim nature of first day orders.

Rule 4003-2. Lien Avoidance

(a) Form. A request for lien avoidance under Code § 522(f) that is not included in a plan must be by motion. A motion to avoid a lien that impairs an exemption under Code § 522(f) must comply with LR 9004-1. The motion must describe the property subject to the lien. In the case of real property and in counties where recorded information is available on-line, the motion must include the county recorder number of the document evidencing the lien.

(b) Notice of motion. Contemporaneously with the filing of the motion, the debtor must file a form of notice stating that any response or objection must be filed within fourteen (14) days of service of the notice.

(c) **Service.** The debtor must serve the motion and notice on all affected lienholders and parties and file a certificate of service.

(d) **Entry of order.** If an objection to the motion is not timely filed and served, the debtor may file certificate of service and of no objection and lodge an order granting the relief requested.

(e) **Procedure on objection.** If a timely objection is filed and served, the debtor must obtain a hearing date and serve a notice of the hearing on the objecting party and file a certificate of service.

Notes 2018: Language simplified and LR updated to reflect that lien avoidance may be accomplished through a plan.

Rule 4008-1. Reaffirmation

(a) **Form.** A reaffirmation agreement must conform to Official Form B 2400A - Reaffirmation Agreement and be accompanied by any security agreement.

(b) **Reaffirmation Without Representation or Certification by Debtor's Attorney.** In a case with an unrepresented debtor, or where an attorney is unwilling or unable to sign the Certification by Debtor's Attorney, the debtor or creditor must file a motion for approval of the reaffirmation agreement. The motion must conform to Official Form B 2400B – Motion for Approval of Reaffirmation Agreement.

Rule 5001-1. Clerk's Office

Unless ordered otherwise by the Court, the United States Bankruptcy Court Clerk's Offices in Phoenix, Tucson and Yuma shall be open from 8:30 a.m. to 4:00 p.m.

Rule 5005-1. Discovery Documents and Exhibits

(a) **Discovery Documents.** Unless ordered otherwise, initial and supplemental disclosures, transcripts of depositions, interrogatories, requests for production, inspection or admissions and responses shall not be filed with the Court except that a "Notice of Service" must be filed. Filing a notice of taking deposition satisfies the requirement of filing a "Notice of Service." This Local Rule does not preclude the use of discovery papers as exhibits or as evidence in a motion or a trial. Any party may request that the Court permit the filing of an original document.

(b) Exhibits. Exhibits in the custody of the Clerk after being marked for identification or having been introduced and/or admitted into evidence shall be disposed of as follows:

> **(1)** Returned to the party who offered the exhibit if the Clerk receives a written request for their return within thirty (30) days after the time for taking an appeal has expired or after an appeal has become final.
>
> **(2)** If not returned pursuant to a timely request, the Clerk will destroy the exhibits.

Notes 2018: Title of LR updated to better reflect content. This Rule now requires a "Notice of Service" to be filed for all disclosures. The procedures concerning sealed documents is now found at new LR 5005-6. Other minor text edits.

Rule 5005-4. Electronic Court Filing System

(a) Mandatory Electronic Filing.

> **(1)** Except as provided in subsection (2) of this Local Rule, all documents submitted in any case or proceeding must be filed electronically and signed or verified by electronic means in compliance with the Court's Administrative Procedure Guidelines for Electronically Filed Cases (the "ECF Guidelines"). Attorneys and other filers using the ECF system must comply with the ECF Guidelines.
>
> **(2)** Only the following may be excepted from the mandatory electronic filing requirement:
>
> > **(A) Pro Se.** Documents filed by an unrepresented individual.
> >
> > **(B) Bankruptcy Court Order.** Documents ordered to be filed in paper form.
> >
> > **(C) Emergency.** Documents filed when electronic filing is not possible.

(b) Proofs of Claim. Unrepresented parties may file proofs of claim electronically through ECF, submit them online on the Court website, or mail or deliver them to the Clerk's Office.

(c) Rejection of Paper Filings. The Court may reject any document presented for filing in contravention of this Local Rule. A paper document accepted for filing will be deemed filed on the date that it was received by the Clerk.

(d) Signatures on Electronically Filed Documents.

> **(1) Registered User's Signature.** An individual's registered user name and password serves as that individual's signature on any electronically filed document. The signature on the filed document shall be /s/Name,

Bar Number. With written permission, a registered user may electronically sign for another registered user.

(2) Signature of Other Individuals.

(A) Signature. When an electronically filed document is not signed by an ECF registered user, a scanned signature or a /s/ signature may be used.

(B) Retention of Signed Original Documents. ECF filers must retain original signed documents for five (5) years from (1) the date of discharge or dismissal in a chapter 7 and (2) the entry date of a confirmation or dismissal order in a chapter 11, 12, or 13.

(C) Password Use. ECF passwords may only be used by the assigned attorney, or other authorized filer, or authorized agents or employees.

(e) Address Information. All filers must include a physical address, telephone number, and email address on any filing, except the list of creditors, schedules, and statement of financial affairs. The Clerk's Office must promptly be notified in writing of any changes in address information.

(f) Privacy Interests. Any person may file a motion for cause limiting or prohibiting electronic access to specific personal information.

(g) Documents Filed on Paper. Any document submitted to the Clerk in paper format will be converted into electronic format before docketing. It is the filer's duty to confirm that the converted document is accurate or file an objection within fourteen (14) days of its entry. Unless ordered otherwise by the Court, if no objection is timely filed, the docketed document will be conclusively confirmed as the paper document. Upon electronic conversion, the Clerk may dispose of the paper document.

Notes 2018: Rule amended to require email address on filed documents, as well as other technical changes. The amended rule eliminates the requirement that the Clerk retain paper documents and authorizes immediate disposal of paper documents 14 days after docketing.

Rule 5005-6. Filings Under Seal

(a) Motion to Seal.

(1) A motion to seal may be made on an ex parte basis setting forth the basis for the relief. The moving party must upload a proposed form of order.

(2) Simultaneously with the motion, the document under seal will be provisionally filed in the manner prescribed by sub-paragraph (b) until the Court rules on the motion.

(3) If protected materials or information are necessary to support the motion, the materials must be described in a declaration filed with the motion, which will be provisionally sealed.

(b) Filing Sealed Documents.

(1) Any document to be filed under seal must be filed electronically using the docket event specifically designated for sealed documents.

(2) A party excepted from filing electronically must submit to the Clerk any document to be filed under seal in a sealed envelope containing the pleading caption, and referencing the motion or order authorizing sealing. Any sealed documents filed in paper will be scanned and electronically sealed on the docket, then destroyed.

(c) Disposition of Documents filed Under Seal. If the motion to seal is denied, the Clerk's Office will delete the sealed document.

(d) Motion to Unseal. A motion to unseal a document may be made on any grounds permitted by law, and must be served on the party that requested the sealing.

(e) Viewing by Court Personnel. Unless ordered otherwise, Court staff will not be precluded from viewing sealed documents.

Notes 2018: New LR establishing updated procedures for filing and disposing of sealed documents (procedures previously set forth in LR 5005-1(c)). Unless otherwise excepted, all sealed documents are to be filed electronically.

Rule 5011-1. Withdrawal of Reference Procedure

(a) Withdrawal by Motion. A motion to withdraw a case or proceeding under 28 U.S.C. § 157(d) must be filed with the Bankruptcy Court Clerk. The Clerk will forward the motion to the District Court Clerk for assignment to and resolution by a District Court Judge.

(b) Withdrawal by Recommendation of Bankruptcy Judge. A judge may recommend to the District Court that a case or proceeding be withdrawn under 28 U.S.C. § 157(d). Any recommendation must be served on the parties to the case or proceeding and forwarded to the District Court Clerk for assignment to and resolution by a District Court Judge.

Notes 2018: Formerly LR 5011-2. Modified to delete subsection (c) referencing applicable rules for withdrawn matters.

Rule 5095-1. Deposit of Funds in the Registry Account

(a) Court Order Required. No funds shall be deposited into the registry without a Court order. The Clerk shall deposit such funds into the Court Registry Investment System (CRIS).

(b) Accounts in CRIS. An account for each case will be established in the CRIS, titled in the name of the case giving rise to the deposit of funds. Money from each case deposited in the CRIS will be "pooled" together with those on deposit with Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury, in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principles of the CRIS Investment Policy as approved by the Registry Monitoring Group.

(1) Interpleader Case. For each interpleader case, an account shall be established in the CRIS "Disputed Ownership Fund" (DOF), titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of the administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by court order.

(2) Non-Interpleader Funds. For non-interpleader funds, an account will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case based on the ration each account's principal and earnings has to the aggregate principal and income total in the fund after the CRIS fee has been applied. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

(c) CRIS Fees and Taxes. The custodian shall deduct the CRIS fee of an annualized ten (10) basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. According to the Court's Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to Court cases.

(d) DOF Fees and Taxes. The custodian shall deduct the DOF fee of an annualized twenty (20) basis points on assets on deposit in the DOF for management of investments and

tax administration. According to the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases. The custodian shall withhold and pay federal taxes due on behalf of the DOF.

(e) Cash Bonds. Cash bonds posted with the Court shall be deposited into the registry account of the Court and the clerk is directed to use the CRIS unless ordered otherwise by the Court.

(f) Order for Payment. Payment of funds shall be by Court order containing the amounts and names of the parties to whom funds are to be paid, including any interest earned. The parties to whom funds are to be disbursed shall provide to the financial deputy their tax identification numbers or social security numbers and complete any forms required by the Internal Revenue Service for the reporting of earned interest.

Notes 2018: LR amended to reflect that interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a DOF, a taxable entity that requires tax administration.

Rule 6004-1. Sales Not in the Ordinary Course of Business

(a) Motion. Except as provided in FRBP 6004(d), sales of property not in the ordinary course of business may only be sold on motion, notice and opportunity for hearing.

(b) Notice. The notice of a sale must include, if applicable:

(1) The time and place of sale;

(2) The name or representative's name of the prospective buyer;

(3) Whether the prospective buyer is an insider;

(4) A detailed description of the property or interest to be sold;

(5) All entities known or believed to hold interests in the property to be sold;

(6) If the sale is free and clear of liens, claims or interests, a description of such liens, claims or interests including copies of all applicable public record searches (e.g., title reports, secretary of state records);

(7) The terms and conditions of the offer;

(8) Whether the property may be viewed, and if so, when and where;

(9) Whether the offer is subject to higher and better bids;

(10) The date by which the objections must be filed and served;

(11) Whether any compensation will be paid from the sale proceeds, to whom, and whether the recipient is an insider;

(12) Whether there is an appraisal of the property and the value of the property stated therein; and

(13) Whether any motions for stay relief have been filed and by whom.

(c) Service. The notice and the motion must be served on those specified in FRBP 6004, potential buyers and/or their brokers, the title company where escrow has been opened, and any parties asserting liens, claims or interests in the property and their counsel. Immediately after service and before hearing, a certificate of service must be filed by movant.

(d) Sale Report. Movant must file a notice of consummation and sale report within twenty-one (21) days of the sale's closing.

Notes 2018: Amended LR requires a motion, notice, and hearing for all sales over $2,500 not in the ordinary course, as well as a notice of consummation and report of sale within twenty-one (21) days. Amendment also requires that notice of sale include copies of all applicable public record searches.

Rule 6006-1. Executory Contracts and Unexpired Leases

(a) Rejection. A motion for rejection of an executory contract or unexpired lease must include:

(1) The date of the contract or lease;

(2) The names of all entities known to movant to claim or to have claimed an interest in the contract or lease, including the original parties, assignees, sublessors, sublessees and parties holding a security interest in the subject property;

(3) The subject matter and essential terms of the contract or lease, including (i) if a real property lease, the location (including the street address, legal description and assessor's parcel number if known), or (ii) if a personal property lease, a description of the items of personal property;

(4) The balance of any payments or other performance required to be paid or performed under the contract or lease; and

(5) The reasons for the relief requested.

(b) Assumption. A motion for assumption of an executory contract or unexpired lease must include:

(1) The items listed in paragraph (a) above;

(2) If there has been a default, how the movant will cure or provide adequate assurance of prompt cure;

(3) How the movant will compensate, or provide adequate assurance of promptly compensating, a party other than the debtor for any actual pecuniary loss resulting from the default; and

(4) How adequate assurance of future performance will be provided.

(c) Assignment. A motion to assign, whether or not included with a motion to assume, must also include:

(1) The name of the proposed assignee and essential terms of the assignment;

(2) How adequate assurance of future performance will be provided, whether or not there has been a default;

(3) Whether the proposed assignment is subject to higher and better bids; and

(4) Whether any disbursements will be paid from any proceeds received and, if so, to whom and whether the recipient is an insider.

(d) Form of Notice. The notice of motion must set forth those items listed in paragraph (a)(1) or, if applicable, paragraph (a)(2) and (a)(3) above and must provide that if no objection is served on movant and filed within twenty-one (21) days of service, the motion may be granted.

(e) Service.

(1) The Motion. The motion must be served on those parties listed in paragraph (a)(2) above.

(2) The Notice of Motion. Notice of the motion must be served on:

(A) Those parties listed in paragraph (a)(2) above;

(B) The United States Trustee;

(C) If appropriate, the attorney for any trustee or, if not represented by an attorney, on the trustee;

(D) If appropriate, the attorney for the debtor or, if not represented by an attorney, on the debtor;

(E) In chapter 11 cases, the twenty largest unsecured creditors or the attorney for any committee appointed under the Code;

(F) Any proposed assignee;

(G) Any party requesting notice; and

(H) Any other person or entity upon whom service is required by law or the court.

(f) Entry of Order.

(1) Lack of Objection. If, after filing a motion to assume, reject or assign, an objection is not timely filed and served, the movant may file a certificate of service and of no objection and lodge an order granting the relief requested.

(2) Service of Certificates and Proposed Orders. Certificates and proposed orders must be served on the parties listed in paragraph (e)(2) above.

(3) Objections. If a timely objection is filed and served, the moving party must obtain a hearing date from the Court and file a notice of hearing, serve it on the objecting party and on other interested parties and file a certificate of service before the hearing.

(g) Expiration of the Time to Assume. If a lease or executory contract is deemed rejected by virtue of the expiration of the applicable period for assumption, any party to the lease or contract may file a motion stating that the time for assumption has expired and that no motion to assume or to extend the time to assume has been filed or is pending and lodge a form of order confirming the rejection of the lease or contract. The motion and form of order must be served on those parties listed in paragraph (a)(2) above. The Court may immediately enter the order without hearing.

Notes 2018: Technical and language revisions. The substance of the rule did not change.

Rule 6007-1. Abandonment of Property

(a) Definitions. For purpose of this Local Rule, the term "trustee" does not include a "debtor in possession".

(b) Procedure.

(1) Notice of Intent to Abandon. A trustee or debtor in possession who desires to abandon property of the estate may file a notice of intent to abandon, without filing a motion.

(2) Motion to Compel Abandonment. A party in interest who seeks to compel the trustee or debtor in possession to abandon property of the estate must file a motion.

(c) Notice.

(1) By Trustee. A trustee's notice of intent to abandon must be served by the Clerk.

(2) By Debtor in Possession. A notice of intent to abandon must be served by the debtor in possession.

(3) **By Movant.** A motion to compel abandonment must be served by the movant.

(4) **Contents.** The notice of intent or motion must describe the nature or type of property to be abandoned, including the address and legal description of the real property, if applicable, and the basis on which the trustee, debtor in possession or movant concludes that the property is burdensome to the estate or of inconsequential value and benefit to the estate.

(5) **Parties to be Served**. The notice must be served on the debtor and those listed in FRBP 6007(a).

(d) Objections. Unless ordered otherwise, objections must be filed with the Court and served on any trustee, the debtor or debtor in possession, and the movant, if applicable, within fourteen (14) days of service of the notice.

(e) Hearings. Unless ordered otherwise and unless a timely objection is filed, a notice of intent to abandon or motion to compel abandonment shall not be set for hearing.

(f) Orders.

(1) **If No Objection is Filed and Served.** If no timely objection to a notice or motion is filed and served, the trustee, debtor in possession, or movant may file a certificate of service and of no objection and lodge an order granting the relief requested.

(2) **If an Objection is Filed and Served.** If a timely objection is filed and served, the trustee, debtor in possession or movant must obtain a hearing, file a notice of hearing, serve the notice on the objecting party, and file a certificate of service.

Notes 2018: LR amended to require a form of order for abandonment.

Rule 6008-1. Redemption

(a) Procedure.

(1) **Motion.** A debtor must file a motion to redeem personal property.

(2) **Service.** The motion and a notice of opportunity to object must be served on:

(A) Any creditor claiming a lien on or interest in the personal property to be redeemed;

(B) The trustee; and

(C) Any other person or entity required by law or the Court.

(3) **Entry of Order.** If an objection is not timely filed and served, the movant may file a certificate of service and of no objection and lodge an order granting the relief requested.

(b) **Objection.**

(1) An objection must be filed and served within fourteen (14) days of service of the notice and motion.

(2) An objection must be supported by specific facts and applicable law. Legible copies of appraisals or summaries relied on by the objector must be attached.

(3) If a timely objection is filed and served, debtor must obtain a hearing and file and serve a notice of hearing on the objecting party and file a certificate of service.

Notes 2018: No substantive changes made to this rule, only minor text changes.

Rule 7008-1. Pleading Consent to Entry of Final Order or Judgment

In an adversary proceeding, in addition to statements required by FRBP 7008(a), the complaint, counterclaim, cross-claim, and third-party complaint must contain a statement that the Court has authority to enter final orders or judgments. The absence of such a statement will be deemed voluntary consent to the authority of the Court to enter final orders or judgments.

Notes 2018: New LR 7008-1 was added to address constitutional authority issues created by the holding in *Stern v. Marshall,* 564 U.S. 2, 131 S.Ct. 2594, 180 L. Ed. 2d 475 (2011), as clarified by *Wellness International Network Ltd. v. Sharif*, 575 U.S. ___ , 135 S.Ct. 1932, 191 L. Ed. 2d 911 (2015), related to the commencement of an adversary proceeding.

Rule 7012-1. Objection to Bankruptcy Court Authority; Deemed Consent

In an adversary proceeding, and within the time set forth in FRBP 7012(a), a responsive pleading must include a statement that the party does or does not consent to entry of final orders or judgment by the Court. The absence of such a statement will be deemed voluntary consent to the authority of the Court to enter final orders or judgments.

Notes 2018: New LR 7012-1 was added to address constitutional authority issues created by the holding in *Stern v. Marshall,* 564 U.S. 2, 131 S.Ct. 2594, 180 L. Ed. 2d 475 (2011), as clarified by *Wellness International Network Ltd. v. Sharif*, 575 U.S. ___ , 135 S.Ct. 1932, 191 L. Ed. 2d 911 (2015), related to a responsive pleading filed in an adversary proceeding.

Rule 7016-1. Joint Pretrial Statement

(a) Contents of Joint Pretrial Statement. Unless ordered otherwise, on the initiative of counsel for the plaintiff or movant, counsel who will try the case and who are authorized to make binding stipulations must confer and prepare a written pretrial statement, signed by each counsel, to be filed by the plaintiff or movant within the time set by the Court or, if no time is set, then not less than seven (7) calendar days before the date of trial. Pretrial statements must conform to Local Form No. 7016-1 Joint Pre-Trial Statement available on the Court's website and must contain the following:

(1) A brief statement of the nature of the case, including relevant Code sections;

(2) The uncontested material facts;

(3) Each party's positions regarding the disputed factual issues to be determined. Each party must state whether it contends that the statement is accurate, material and relevant, and why;

(4) Agreed material issues of law;

(5) A separate statement by each party of disputed material issues of law;

(6) A list of each party's trial witnesses and a summary of the substance of the witnesses' testimony. Witnesses that are not properly listed, including impeachment witnesses, may not be called at the trial other than for good cause shown. For each witness, opposing parties must set forth, immediately following the summary of the testimony, the legal basis for any objection to the witness testifying. The joint pretrial statement must identify those witnesses whose direct testimony will be presented by declaration or deposition testimony. No witness will be permitted to testify other than in person absent prior Court permission. Any witness permitted to appear telephonically may not appear via wireless device;

(7) A copy of any witness declarations the party intends to introduce at trial. Unless the Court orders otherwise, no witness may provide testimony via a declaration unless the witness appears in person at trial and is subject to cross-examination. Unless ordered otherwise, the direct testimony of any expert witness must be by written declaration including the expert report. The expert witness must appear in person at the hearing and be subject to cross examination;

(8) A statement identifying any depositions to be offered at trial, indicating the specific parts to be offered and against whom they will be offered. Each opposing party must designate any requested supplements to the proposed deposition excerpt;

(9) Each party's estimate of the time required for trial;

(10) A list of all trial exhibits and any evidentiary objections to the trial exhibits; and

(11) A certification by each party that all listed exhibits have been exchanged or made available to all other parties for inspection and copying and that they have put in place a mechanism that will permit an efficient, electronic presentation of documents in a legible form. Except for good cause shown, no exhibits may be used during the trial other than those presented in accordance with this rule. The parties must comply with the following requirements to identify, label and deliver exhibits to the Court:

(i) The plaintiff's or movant's exhibits must be identified by numbers; defendant's or respondent's exhibits must be identified by alphabet. The courtroom deputy must be provided with an Exhibit List before the start of trial, as specified or ordered by the assigned judge.

(ii) Unless ordered otherwise, the parties must meet and confer to combine all exhibits on the same flash drive. Unless ordered otherwise, at the time of the hearing, counsel must provide the courtroom deputy with two (2) thumbdrives/flashdrives that contain all exhibits.

(iii) Unless ordered otherwise, all trial exhibits must be presented electronically. This requirement does not apply to pro se parties.

(b) Draft. Unless otherwise agreed by the parties, counsel for plaintiff or movant will prepare and send to opposing parties the initial draft of the joint pretrial statement no later than fourteen (14) days before the filing deadline. All other parties must provide input to the drafting party within seven (7) business days of the receipt of the draft joint pretrial statement. If a party is appearing pro se, counsel representing any other party must timely prepare and distribute the first draft of the joint pretrial statement.

(c) Unilateral Pretrial Statement. Any party who does not cooperate in a timely manner in preparing the joint pretrial statement may be precluded from calling any witnesses or submitting any trial exhibits. If a party does not cooperate, any other party may file a unilateral pretrial statement by the deadline, together with a motion for authority to file a unilateral statement, explaining the details of the other party's lack of cooperation, including dates when drafts were distributed, and must lodge an appropriate form of order granting the motion.

(d) Unrepresented Parties. Any unrepresented party is responsible for complying with the requirements of this Local Rule except the requirement that exhibits be presented electronically, and any reference in this Local Rule to counsel shall be deemed to refer to such unrepresented party.

Notes 2018: LR amended to expand the contents of a Pre-Trial Statement. Experts' direct testimony to be via declaration. Exhibits will be presented electronically, except for pro se litigants. The Pre-Trial Statement must conform to Local Form No. 7016-1 Joint Pre-Trial Statement available on the Court's website.

Rule 7037-1. Discovery Disputes in Adversary Proceedings – Request for Informal Conference

After personal consultation and a sincere effort to resolve a discovery dispute that cannot be resolved without Court intervention, the parties must promptly call chambers and await further instruction before filing a discovery related motion. Instructions for contacting chambers are set forth on the Judge's Procedures page of the Arizona Bankruptcy Court website located at www.azb.uscourts.gov. "Personal consultation" means a face-to-face meeting or phone discussion, in addition to emails, voicemails, and texts.

Notes 2018: New LR. Many discovery disputes can be resolved through sincere efforts and discussions by the parties and counsel. Early guidance or intervention from the Court can often help to avoid costly and resource-consuming motion practice regarding discovery disagreements. Accordingly, parties are required to engage in sincere good faith efforts and personal consultation as set forth in the Rules, and if they are unable to resolve the dispute, a telephone call to chambers is appropriate. However, use of this informal procedure does not suspend the time requirements set forth in Rules 7030-7036, FRBP.

Rule 7054-1. Costs - Taxation

(a) Cost Statement. Unless ordered otherwise, a prevailing party must file a verified cost statement, a notice of application and a proposed cost taxation form within fourteen (14) days of entry of judgment.

(b) Objections. Unless ordered otherwise, an adverse party must file and serve any objection (including supporting evidence) to a request for costs within fourteen (14) days after service of the cost statement.

Notes 2018: No substantive changes made to this rule, only minor text changes.

Rule 8001-1. Reserved

[RESERVED]

Notes 2018: Former LR 8001-1 District Court Appellate Rules has been withdrawn.

Rule 9001-1. Reserved

[RESERVED]

Notes 2018: Former LR Definitions moved to LR 1001-1 and content revised.

Rule 9004-1. Papers - Caption and Form; General

(a) Caption. Unless otherwise specified in this Local Rule, the caption of each filed document, other than the petition, must include the title of the Court as set forth in LR 1005-1, the name of the debtor, the chapter of the case, the bankruptcy case number and a brief description of the relief requested. The following information must be stated on the first page of a filed document to the left of the center of the page and beginning at line one:

(1) name of the law firm or other filer;

(2) mailing address;

(3) email address;

(4) name of responsible counsel and State Bar Attorney number, if applicable;

(5) telephone number;

(6) fax number (optional); and

(7) party represented.

(b) Case Number and Chapter. Any filed document must include in the caption the complete case number assigned by the Court and the chapter of the case.

(c) Adversary Proceedings and Stay Relief Motions. All filings in an adversary or stay relief proceeding must be dual captioned. The first caption must include the debtor's name. The second caption must include the names of the plaintiffs/movants and defendants/respondents. An adversary caption must also contain the adversary number.

(d) Jointly Administered or Substantively Consolidated Cases. Unless ordered otherwise, after the entry of an order for joint administration or substantive consolidation of two or more bankruptcy cases, all documents filed must be jointly captioned to include the debtors' names and the case numbers of all the cases ordered jointly administered or substantively consolidated. The caption must include whether the cases are jointly administered or substantively consolidated. All pleadings must be filed and docketed in only the lowest numbered case. The caption must identify the jointly administered case or cases to which the filing relates.

(e) Date and Time of Hearing. The caption must include the date, time and place of the hearing if known. This information must be placed on the right side of the caption beneath the case number.

(f) Amended Pleadings. Unless ordered otherwise, any amended pleading may incorporate by reference any part of the preceding pleading including the exhibits.

(g) Form of Papers. All pleadings, motions and other papers must (1) identify in the caption the relief sought, (2) be on number-lined pleading paper, (3) not exceed 28 lines per page, (4) be typed double-spaced, except for footnotes and indented quotations, and (5) be signed as provided in FRBP 11 or LR 5005-4. The text must be in a proportional font size no smaller than 13 point, except that footnotes may be 12 point. The papers must be formatted for

paper 8½ inches by 11 inches, the left margin must be not less than 1½ inches and the right margin must be not less than ½ inch.

(h) Length of Documents. Unless ordered otherwise, no document may exceed fifteen (15) pages exclusive of attachments, except chapter 11 disclosure statements/plans and objections.

Notes 2018: Proposed forms of order must comply with LR 9022-1. Other requirements for filing papers are found in LR 1005-1. LR amended to clarify that objections and replies not covered by LR 9013 are subject to page limits.

Rule 9009-1. Forms

Unless specifically identified in the Local Rules as being a mandatory form, a form provided in these Local Rules is for convenience of the parties.

Rule 9010-1. Attorneys – Appearance, Withdrawal, Substitution, and Change of Contact Information

(a) Applicability of Rules. Any attorney representing a debtor, creditor or party in interest must comply with all requirements of the Code, FRBP, these Local Rules and the Arizona Rules of Professional Conduct.

(b) Appearance by Represented Party. Unless ordered otherwise, a party appearing through counsel may not act on the party's own behalf.

(c) Debtor's Attorney.

(1) General Appearance. An attorney who files a debtor's bankruptcy petition, or who files a notice of appearance on a debtor's behalf, must represent the debtor in all matters, other than adversary proceedings, until the case is closed or the Court enters an order approving withdrawal or substitution of counsel.

(2) Adversary Proceedings. An attorney who files a notice of appearance or other pleading on the debtor's behalf in an adversary proceeding, must represent the debtor until the proceeding is closed or the Court enters an order approving withdrawal or substitution of counsel.

(d) Creditor's or Interested Party's Attorney; Appearance. An attorney who files a notice of appearance on behalf of a client must represent the client in all matters other than adversary proceedings, until the case is closed or the Court enters an order approving withdrawal or substitution of counsel. Service on the attorney is effective service on the client until the attorney has withdrawn.

(e) Motion to Withdraw or Substitute. No attorney may seek to withdraw or be substituted except by written application. Unless rules require otherwise, the application must contain at a minimum: (1) the reason for the proposed withdrawal or substitution, including whether the client is aware of and consents; and (2) the name, address and telephone number of the substituting attorney, and such attorney's approval. If no substituting attorney exists, the application must contain: (1) the client's name, last known address and telephone number; and (2) a certification that the client has been notified in writing of the status of the case, including the dates and time of any hearings or trial settings and the need to comply with any existing orders, discovery requests and the possibility of sanctions for the failure to comply. A proposed form of order containing the name, address, email address and telephone number of the substituting attorney or client must accompany the filed application. The application may be granted without a hearing.

(1) Additional Disclosure to Corporation, Partnership, Unincorporated Association, or Trust. An application to withdraw from representing a corporation, partnership, limited liability partnership or company, any unincorporated association, or trust must include a certification that the client has been advised it cannot appear without counsel.

(2) Notice. An attorney seeking to withdraw or to substitute another attorney must provide notice as required by FRBP 2002.

(f) Change of Address. An attorney who changes office address or contact information as shown on the Court docket must:

(1) File a change of address or contact information in each open case in which the attorney has appeared;

(2) Make such change within the Profile section of the Court's electronic case filing system; and

(3) Notify the United States Trustee in writing.

Notes 2018: Subsections (c) and (d) revised to make clear that an attorney who files a bankruptcy petition for a debtor, or that files a notice of appearance on behalf of a debtor, creditor or interested party is the attorney on all matters, other than adversary proceedings. The Court will enforce this obligation regardless of any limitation contained in any retention agreement between the attorney and the debtor.

Rule 9011-1. Attorneys - Ethical Obligations

Rule 42 of the Rules of the Supreme Court of the State of Arizona shall apply to attorneys who file any pleading or document or who are heard in any matter before the Court.

Notes 2018: Language simplified.

Rule 9013-1. Motion Practice

For purposes of these Local Rules, a request for an order, including a motion, application or other request for relief (all of the foregoing will be referred to in this Local Rule as a "motion") are to be governed by the following requirements.

(a) Motions. All motions, unless made in open Court, must include a memorandum setting forth the supporting authorities.

(b) Length of Motions and Memoranda. Unless ordered otherwise, a motion, a response or reply and the supporting memoranda must not exceed fifteen (15) pages exclusive of attachments.

(c) Response and Reply Times. Unless ordered otherwise or as set forth in the Rules, the Local Rules, or the notice required by paragraph (j), the party responding to a motion will have fourteen (14) days after service within which to serve and file a response, and the moving party will have fourteen (14) days after service of the response to serve and file a reply.

(d) Unopposed or Ex Parte Motions. If the movant contends that the motion is unopposed or should be granted on an ex parte basis, the motion must state why it may be granted without notice and must be accompanied by a form of order. The following non-exclusive list of motions may be filed on an ex parte basis. Other motions may be filed on an ex parte basis if authorized by the Court.

(1) Motions for 2004 examinations;

(2) Applications to approve estate professionals;

(3) Motions to exceed the page limit (must include explanation);

(4) Motions to set bar date for filing claims;

(5) Motion to pay filing fee in installments;

(6) Motion to continue hearing, with statement of whether opposing counsel consented, and if not, the reason consent was not obtained;

(7) Motion to delay discharge;

(8) Motion to appear pro hac vice;

(9) Motion to reopen a case; and

(10) Trustee's motion to defer filing fee.

(e) Discovery Disputes – Required Request for Informal Conference. After personal consultation and a sincere effort to resolve a discovery dispute that cannot be resolved without Court intervention, the parties must promptly call chambers and await further instruction before filing a discovery related motion. Instructions for contacting chambers are set forth on the Judge's Procedures page of the Arizona Bankruptcy Court website located at

www.azb.uscourts.gov. "Personal consultation" means a face-to-face meeting or phone discussion, in addition to emails, voicemails, and texts.

(f) Motions to Compel. When the Court has authorized the filing of a motion for an order compelling discovery, the moving party must set forth the following in separate, distinct, numbered paragraphs:

(1) The questions propounded, the interrogatory submitted, the designation requested or the inspection requested;

(2) The answer, designation or response received; and

(3) The reason(s) why the answer, designation or response is deficient.

(g) Motions for Summary Judgment. Any motion for summary judgment must set forth separately from the memorandum of law the specific facts on which the moving party relies. The specific facts must be set forth in serial fashion, not in narrative form. For each fact, the statement must refer to a specific part of the record where the fact may be found (e.g., affidavit, deposition, discovery responses, etc.). A failure to submit a separate statement of facts in this form may constitute grounds for the denial of the motion.

(1) Any party opposing summary judgment must comply with the foregoing in setting forth the specific facts relied on in opposing the motion or that otherwise establish that a genuine issue of material fact exists that precludes summary judgment.

(2) In the alternative, if the parties agree that no genuine issue of material fact exists, they must jointly file a statement of stipulated facts. For stipulated facts, the parties may state that their stipulations are entered into only for the purposes of the motion for summary judgment and are not to be otherwise binding.

(3) Unless ordered otherwise, the party opposing or responding to a motion for summary judgment will have thirty (30) days after service within which to serve and file a response and the moving party will have fourteen (14) days after service of the response to serve and file a reply.

(h) Accelerated Hearings. Motions to accelerate hearings or reduce notice periods are governed by the following requirements:

(1) The moving party must notify any opposing parties and must serve the pleadings at the earliest possible time and by the most expeditious means;

(2) The request for relief must be a separate motion and bear a caption such as "Motion for Accelerated Hearing" or "Motion to Reduce Notice Period." A proposed order granting the relief requested must be lodged with the motion; and

(3) The motion must contain:

(A) The telephone numbers, fax numbers, email addresses and office addresses of the attorneys for the opposing parties;

(B) Facts showing the existence and nature of the claimed emergency;

(C) The date by which the hearing is needed and why; and

(D) When and how counsel for the opposing parties were notified and whether they have been served with the motion, or, if not notified and served, why that was not done.

(i) Motions for Continuance or Extensions of Time. Requests for continuance of hearings or extensions of time about briefing schedules or other matters must state whether any other party objects to the request, or why the moving party has been unable to determine the other party's position.

(j) Notice for Motion Requiring a Hearing. For any motion that requires a hearing, the moving party must obtain and provide notice of the date, time and location of the hearing to all interested parties along with the following information:

(1) The details of the relief requested, the deadline for any response or objection, and the requirement that any response or objection be filed with the Court and served on the moving party; and

(2) That the Court may vacate the hearing and grant the relief requested if no timely objection is served and filed.

The moving party must serve the notice as required by the Rules, Local Rules, or Court order and file a certificate or affidavit of service.

(k) Relief Possible on 21-Day Bar Date Notice.

(1) In addition to the bar date procedures established by these Local Rules, unless ordered otherwise, the moving party may use a 21-day bar date notice for:

(A) Motions to approve § 363 sales other than real property, and other than under Code § 363(h);

(B) Motions to approve compromises and settlements under FRBP 9019;

(C) Applications for professional fees;

(D) Objections to exemptions claimed by the debtor;

(E) Motions by debtors to sell or refinance homestead property;

(F) Motions to extend time to assume or reject a unexpired lease or an executory contract except as required by Code § 365(d)(4); and

(G) Motions by debtors to avoid liens.

(2) All motions and applications using the negative notice process must comply with LR 2002-2.

(3) If an objection is filed or received, the moving party must obtain a hearing and serve notice of the date, time and location of the hearing, and file a certificate of service.

Notes 2018: Numerous amendments made to LR 9013-1. Amendments to LR 9013-1(b) are intended to clarify that the fifteen (15) page limit is applicable to responses and replies (including supporting memoranda).

Subpart (d) amendments are intended to clarify which motions may be filed ex parte.

Subpart (e) was added to provide guidance for discovery disputes. Many discovery disputes can be resolved through sincere efforts and discussions by the parties and counsel. Early guidance or intervention from the Court can often help to avoid costly and resource-consuming motion practice regarding discovery disagreements. Accordingly, parties are required to engage in sincere good faith efforts and personal consultation as set forth in the Rules, and if they are unable to resolve the dispute, a telephone call to chambers is appropriate. However, use of this informal procedure does not suspend the time requirements set forth in FRBP 7030-7036.

This LR has been updated to reference the new LR 2002-2 for proper noticing procedures in connection with matters served with negative notice. Subpart (k) is intended to provide a comprehensive list of all matters for which negative notice is authorized. Other matters not specifically provided for in these LRs may not be served with negative notice absent specific Court order.

Rule 9014-1. Reserved

[RESERVED]

Notes 2018: Former LR 9014-1 Applicability of Federal Rules has been withdrawn.

Rule 9014-2. Consent To Bankruptcy Court Authority

In a contested matter before the Court, in addition to requirements of FRBP 9013 and 9014, the initial motion, objection or other document filed by any party must contain a statement whether the Court has authority to enter final orders in the contested matter. If no such statement is included, the filing will be deemed the party’s consent to the authority of the Court to enter final orders.

Notes 2018: The text from former LR 9014-2 Hearings on Contested Matters has been moved to

new LR 9014-3. The new text in LR 9014-2 addresses the jurisdictional issues created by the holding in *Stern v. Marshall,* 564 U.S. 2, 131 S.Ct. 2594, 180 L. Ed. 2d 475 (2011), as clarified by *Wellness International Network Ltd. v. Sharif*, 575 U.S. ___ , 135 S.Ct. 1932, 191 L. Ed. 2d 911 (2015), related to contested matters.

Rule 9014-3. Initial Hearing on Contested Matters; No Live Testimony

Unless ordered otherwise, all hearings on contested matters will be conducted without live testimony. If the Court determines that there is a material factual dispute, the Court will schedule an evidentiary hearing.

Notes 2018: The text of new LR 9014-3 was previously found in former LR 9014-2 titled Hearings on Contested Matters. It was amended to simplify the language.

Rule 9014-4. Under Advisement Matters

Whenever any matter has been under advisement for more than sixty (60) days, the parties or their counsel may jointly inquire of the Court about the status of the decision.

Notes 2018: New LR derived from former LR 9010-1(d).

Rule 9022-1. Judgments or Orders

(a) Proposed Orders.

(1) Proposed orders must be prepared as a separate document and must not be included as part of stipulations, motions or other pleadings. The proposed order must not contain any information identifying the party submitting the order. The order must set forth in detail the relief to be granted or attach the parties' stipulation, and conform to the relief requested. The proposed order must not contain a signature block, but must conclude with language substantially similar to the following: **DATED AND SIGNED ABOVE.**

(2) Proposed orders must be in a text selectable, searchable, and editable PDF file format before uploading into the CM/ECF system.

(3) No lodged order may contain a mailing certificate.

(4) Unless ordered otherwise or provided by these rules, a proposed order shall only be lodged after a ruling has been issued or, if the relief was sought by negative notice, after the filing of a certificate of service and of no objection.

(b) Submission of Proposed Judgments or Orders. Proposed judgments or orders must be electronically submitted by attorneys and case trustees using Order Upload in the CM/ECF system.

(c) Notice of Lodging Judgment or Order. Immediately after electronically submitting the proposed judgment or order, the submitting attorney or case trustee must also create a docket entry with the proposed judgment or order attached or file a Notice of Lodging with the proposed judgment or order attached.

(d) Service of Judgment or Order by Clerk. The Clerk is authorized to serve a judgment or order on those parties who have consented to electronic service by generating a "Notice of Electronic Filing". The consenting party must enable the CM/ECF system email notification so that service can be made. Electronic service will be noted on the docket.

(e) Objection to Court's Authority to Enter a Default Judgment or Order. Any objection to the Court's authority to enter a default judgment or order must be filed within fourteen (14) days after entry of the judgment or order. Failure to object will be deemed consent to the entry of the default judgment or order.

Notes 2018: LR 9022-1 was amended to prohibit parties from submitting proposed forms of order that include identifying information. It was also amended to provide that forms of order may not incorporate information by reference, but must instead set forth all relief to be granted or attach the parties' stipulation. Finally, for consistency in electronically entered orders, that subsection was further amended to require all orders to contain a uniform signature block that refers the reader to the location of the date and signature.

Subpart (e) amended to address issues created by the holding in *Stern v. Marshall,* 564 U.S. 2, 131 S.Ct. 2594, 180 L. Ed. 2d 475 (2011), as clarified by *Wellness International Network Ltd. v. Sharif*, 575 U.S. ___ , 135 S.Ct. 1932, 191 L. Ed. 2d 911 (2015), related to the Court's authority to enter default judgments or orders.

Rule 9023-1. Motion for New Trial; Amendment of Judgments

(a) Timing. A motion under FRBP 9023 must be filed within fourteen (14) days of the entry of the order or judgment.

(b) Form and Content of Motion. Any motion for relief under this Local Rule must specifically designate the matters that the movant asserts were inappropriately adjudicated, and the specific modifications requested to the order of judgment.

(c) Response. A party may not file a response to a motion filed under this Local Rule unless requested by the Court, but the motion will not be granted without the opposing party being provided an opportunity to respond.

Notes 2018: New LR 9023-1 added to provide guidance on how to seek new trials or amend judgments.

Rule 9027-1. Removal and Remand

(a) Notice of Removal of Litigation. A notice of removal of litigation pending in an Arizona state court must be filed with the Clerk's office where the bankruptcy case is pending.

(b) Remand. A motion for remand of the removed litigation under subsection (a) must be filed with the Clerk's office where the bankruptcy case is pending.

(c) Filing of Pleadings. Unless ordered otherwise, the party filing the notice of removal must file with the Clerk in chronological order copies of all process, pleadings (as narrowly defined by FRCP Rule 7(a)), and minute entries and orders filed in the state court litigation along with a copy of the docket. In addition, the party filing the notice of removal must file a copy of any pending motion together with any related response and reply. All documents must be filed by the later of:

(1) thirty (30) days after filing a notice of removal under subsection (a), or;

(2) if a motion to remand is filed before expiration of the 30-day period, fourteen (14) days after entry of an order denying the motion to remand.

(d) Notice of Pending Motion. Any party seeking a ruling on a motion that was pending at the time of removal must file with the court a Notice of Pending Motion and Request for Hearing. The Notice must identify the motion by name and its new docket number in the Court's docket; describe the status of briefing on the motion; and state when a hearing should be scheduled. Unless ordered otherwise, removal shall not otherwise affect the time to respond or reply to a motion filed before removal.

(e) Jury Trial Demand. Within fourteen (14) days of service of the notice of removal, a party must comply with Rule 9015 to preserve any right to a jury trial.

Rule 9071-1. Stipulations

(a) Written. Stipulations not made on the record must be in writing, signed by all affected parties or counsel.

(b) Binding Effect. No stipulation shall be binding until approved by the Court. Stipulations made in compliance with paragraph (a) above shall be binding on the participating parties and counsel pending Court approval. The Court may refuse to consider parole evidence of any stipulation not made in compliance with paragraph (a) above.

Notes 2018: Rule 9071-1 revised to simplify language.

Rule 9072-1. Procedures Governing Alternative Dispute Resolution Matters in Bankruptcy Cases

(a) ADR Program. Litigation in bankruptcy cases frequently imposes significant economic and other burdens on parties and often delays resolution of disputes. Alternative Dispute Resolution ("ADR") procedures have the potential to reduce delay, cost, stress and other burdens often associated with bankruptcy and bankruptcy related litigation. Mediation, in particular, allows parties more active involvement in determining the resolution of their disputes. To provide a court-annexed ADR procedure, the court adopts Local Rules 9072-1 through 9072-9 creating an ADR Program for the District of Arizona (the "ADR Program").

(b) ADR Methods. It is the court's intention that the ADR Program shall operate in such a way as to allow the participants to take advantage of and utilize a wide variety of ADR methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation, and settlement facilitation. The specific method or methods employed will be those that are appropriate and applicable as determined by the mediator and the parties, or as directed by the court and will vary from matter to matter. Nothing contained herein is intended to preclude other forms of ADR with the consent of the parties.

Rule 9072-2. Assignment of Matters to ADR

The court may assign a matter for inclusion in the ADR Program sua sponte, upon written stipulation of the parties to the matter, or on motion of a party to the matter or the United States Trustee. While participation by the parties in the ADR Program is generally intended to be voluntary, the court may designate specific matters for inclusion in the ADR Program, or the United States Trustee, the court may order additional parties to participate in the ADR Program if the participation of the additional parties would be necessary or helpful.

Rule 9072-3.Types of Matters Subject to ADR

Unless otherwise ordered by the court, all controversies arising in an adversary proceeding, contested matter, or other dispute in a case are eligible for referral to the ADR Program.

Rule 9072-4. Effect of ADR on Pending Matters

The assignment of a matter to the ADR Program does not relieve the parties to that matter from complying with any other court orders or applicable provisions of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or the local bankruptcy rules of this Court. Unless otherwise ordered by the Court, the assignment of this matter to the ADR Program does not delay or stay discovery, pretrial, hearing dates, or trial schedules.

Rule 9072-5. Panel of Mediators/ADR Program Administrator

The clerk shall establish and maintain two lists of attorneys and panel trustees (the "Panel") qualified under Local Rule 9072-6 and approved by the court to serve as mediators in the ADR Program. The Chief Bankruptcy Judge shall appoint a judge of this court, who is willing, to serve as the ADR Program Administrator (the "ADR Program Administrator"). Aided by staff members of the court, the ADR Program Administrator shall receive applications for approval to the Panel, track and compile reports on the ADR Program, and otherwise administer the ADR Program and handle such other administrative duties as are necessary.

Rule 9072-6. Application and Certification of Mediators

(a) Application and Qualification Requirements. Each attorney or panel trustee applying for approval to the Panel must submit to the ADR Program Administrator the Application Form which can be obtained from the court's website. Except as otherwise determined by the court, to be approved as a mediator in the ADR Program, each applicant must meet the following criteria:

(1) if the applicant is an attorney, be a member in good standing of the bar of any state or the District of Columbia, with at least five years of practice; or

(2) if the applicant is an attorney, be a member in good standing of the bar of the Federal District Court of Arizona, with at least five years of practice; or

(3) if the applicant is a panel trustee, be an active panel trustee in good standing with the office of the United States Trustee with at least five years of service as a panel trustee, or if retired, have been a panel trustee in good standing with the; office of the United States Trustee with at least five years of service as a panel trustee;

(4) not have been suspended, or have had a professional license or bond revoked, or have pending any proceeding to suspend or revoke such license or bond;

(5) not have resigned from a professional organization or panel while an investigation was pending into allegations of misconduct which would warrant suspension, disbarment or professional license or bond revocation;

(6) not have been conflicted of a felony;

(7) have completed appropriate mediation training, or have sufficient experience, in the mediation process;

(8) be determined by the court to be competent to perform the duties of a mediator; and

(9) be willing to serve as mediator in at least one matter during each quarter of each year, subject only to unavailability due to conflicts, personal or

professional commitments, or other matters which would make such service inappropriate.

(b) Term. Mediators shall serve as members of the Panel for a term of three (3) years unless the mediator is advised otherwise by the court or submits a written request to withdraw from the Panel to the ADR Program Administrator. Reappointment will occur at the court's discretion, and an application for reappointment shall not be required. A mediator assigned to act as a mediator in a matter before expiration of his or her term shall continue said service until the mediation is concluded regardless of term expiration.

(c) Court Certification. The court, in its sole discretion, shall grant or deny an application submitted pursuant to Local Rule 9072-6. If the court grants the application, the applicant's name shall be added to the Panel, subject to removal pursuant to Local Rule 9072-6(f).

(d) Reaffirmation of Qualifications. Each applicant approved for designation to the Panel shall reaffirm annually the continued existence and accuracy of the qualifications, statements, and representations made in the application. Failure to comply with this section shall be grounds for removal under Local Rule 9072-6(f).

(e) Mediator's Oath. Before serving as a mediator, each person designated to the Panel as a mediator shall take the following oath or affirmation:
"I, ______, do solemnly swear (or affirm) that I will faithfully and impartially discharge and perform all the duties incumbent upon me as a Mediator in the ADR Program of the United States Bankruptcy Court for the District of Arizona with equal respect to all persons regardless of race, religion, gender, ethnicity, or economic status . So help me God."

(f) Removal from Panel. A person shall be removed from the Panel either at the person's request or by court order. If removed by court order, the person shall not be returned to the Panel absent a court order obtained on motion to the ADR Program Administrator, supported by an affidavit sufficiently explaining the circumstances of such removal and the reasons justifying the return of the person to the panel.

Rule 9072-7. Appointment of Mediator

(a) Selection and Appointment of Mediator.

(1) Selection by Parties. Unless otherwise ordered by the court, within seven days following the receipt of notice of assignment of a matter to the ADR Program, the parties to the matter shall select a mediator and an alternate mediator, and shall present the court with a proposed order of appointment. If such selection is not from the Panel, the parties shall submit with the proposed order of appointment a stipulation by the parties that the proposed mediator is not on the Panel but is otherwise qualified under Local Rule 9072-6 to mediate the matter. If the court, in its sole discretion approves the parties' selection, immediately after entry of the order of appointment, the court shall notify the parties, the mediator, and the alternative mediator of the appointment.

(2) **Selection/Appointment by Court.** If the parties cannot agree upon a mediator within 14 days following the receipt of notice of assignment of a matter to the ADR Program, the parties shall notify the court; thereupon, the court shall appoint a mediator and an alternative mediator from the Panel, and shall notify in writing the parties, the mediator, and the alternative mediator of such appointment.

(b) Inability of Mediator to Serve. If the mediator is unable to serve, the mediator shall, within seven days after receipt of notice of the appointment, file and serve on all parties to the matter, and on the alternate mediator a notice of inability to accept the appointment. If the alternate mediator does not file and serve on all parties to the mediation a notice of inability to accept the appointment within seven days after receipt of the original mediator's notice of inability to accept the appointment, the alternate mediator shall then become the mediator. If neither the mediator nor the alternate mediator can serve, the court shall appoint another mediator and alternative mediator.

(c) Disqualification of Mediator.

(1) **Disqualifying Events.** Any person selected as a mediator may be disqualified for bias or prejudice in the same manner that a judge may be disqualified under 28 U.S.C. § 455. Any person selected as a mediator shall be disqualified in any matter where 28 U.S.C. § 455 would require disqualification if that person were a judge.

(2) **Inquiry by Mediator; Disclosure.** Promptly after receiving notice of appointment, the mediator shall make inquiry sufficient to determine whether there is a basis for disqualification under Local Rule 9072-7(c)(1). The inquiry shall include, but not be limited to, a search for conflicts of interest in the manner prescribed by the applicable rules of professional conduct for attorney mediators, and by the applicable rules pertaining to the mediator's profession for non-attorney mediators. Within seven days after receiving notice of appointment, the mediator shall file with the court and serve on the parties to the mediation either (a) a statement that there is no basis for disqualification under Local Rule 9072-7(c)(1) and that the mediator has no actual or potential conflict of interest or (b) a notice of withdrawal.

(3) **Objection Based on Conflict of Interest.** A party to the mediation who believes that the assigned mediator and/or the alternate mediator has a conflict of interest, promptly shall bring the issue to the attention of the mediator and/or the alternate mediator, as applicable, and to the other parties to the mediation. If the mediator does not voluntarily withdraw, the issue shall be brought to the court's attention by the mediator or any of the parties to the mediation. Any pleading shall be filed with the court, and copies of the pleading shall be mailed to all of the parties to the mediation, their counsel of record, if any, the mediator, the alternative mediator, and the ADR Program Administrator. The court shall take such action as the court deems necessary or appropriate to resolve the alleged conflict of interest and to avoid the appearance of impropriety.

(d) Mediator's Liability. There shall be no liability on the part of, and no cause of action shall arise against, any person who is appointed as a mediator on account of any act or omission in the course and scope of such person's duties as a mediator.

(e) Compensation.

(1) Compensated Mediation. Mediators who meet the requirements of Local Rule 9072-6 shall be paid fees and expenses on such terms as the mediator and the parties to the mediation may agree or as the court otherwise may direct. The parties to the mediation shall share equally all ADR fees and expenses unless the parties to the mediation agree otherwise. The court may, in the interest of justice, determine a different allocation or a different fee structure. ADR fees and expenses are subject to prior court approval if the bankruptcy estate is to be charged with any portion. Notwithstanding the foregoing, the mediator's fee, whether agreed to by the parties or fixed by the court, may not be contingent or otherwise based on the result or outcome of the ADR process. The court shall maintain a list of all mediators who are qualified to be compensated mediators.

(2) Uncompensated Mediation. The court shall maintain a list of mediators who have agreed to serve as mediators without compensation in those cases where one or more of the parties can not afford to pay for mediation. Any attorney or panel trustee willing to serve as an uncompensated mediator shall file then Application Form pursuant to Local Rule 9072-6 above and state that they are willing to serve as an uncompensated mediator. To be approved as a uncompensated mediator it is not required that the applicant have completed mediation training.

Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Rule 9072-8. The Mediation

(a) Initial Telephonic Conference. Promptly, but no later than 14 days of receipt of notification of appointment, the mediator shall conduct a telephone conference with counsel of record for the parties (or the parties, where appearing pro se) to discuss (1) fixing a convenient date and place for the ADR Conference; (2) the procedures that will be followed during the ADR Conference; (3) who shall attend the ADR Conference on behalf of each party; (4) what material or exhibits should be provided to the mediator before the ADR Conference; and (5) any issues or matters that it would be especially helpful to have the parties address in the Submission materials.

(b) Time and Place of ADR Conference. After consulting with all counsel and pro se parties, the mediator shall schedule a convenient time and neutral place for the ADR Conference, and promptly give all counsel and pro se parties at least 14 days advance written notice of the time and place of the ADR Conference. The mediator shall schedule the ADR Conference to begin as soon as practicable after entry of the order of appointment.

(c) Submission Materials. Not less than seven days before the ADR Conference, each party shall submit directly to the mediator, and shall serve on all counsel and pro se parties,

an ADR statement (the "Submission"). The Submission shall not be filed with the court and the court shall not have access to the submission of any portion thereof. The Submission may include any information that the parties would consider useful, but must:

(1) Identify the person(s), in addition to counsel of record, who will attend the ADR Conference as representative of the party with decision making authority;

(2) Describe briefly the nature and scope of the substance of the dispute;

(3) Address whether there are legal or factual issues whose early resolution might reduce appreciably the nature and scope of the dispute or significantly contribute to settlement;

(4) Identify the discovery that could contribute most to equipping the parties for meaningful settlement discussions;

(5) Set forth the history of past settlement discussions, including disclosure of prior and any presently outstanding offers, counteroffers, and demands;

(6) Make an estimate of the cost and time to be expended for further discovery, pretrial motions, expert witnesses, and trial;

(7) Indicate presently scheduled court dates for further status conferences, pretrial conferences, trial, or otherwise; and

(8) Attach copies of the document(s) from which the dispute has arisen or other relevant documents or information whose availability would materially advance the purposes of the Mediation Conference.

(d) Attendance at ADR Conference.

(1) Persons Required to Attend. The following persons must attend the ADR Conference:

(A) Each party who is a natural person;

(B) If a party is not a natural person, a representative who is not the party's attorney of record and who has full authority to negotiate and settle the matter on behalf of the party;

(C) If the party is a governmental or quasi governmental entity that requires settlement approval by an elected official or legislative body, a representative who has authority to recommend a settlement to the elected official or legislative body;

(D) The attorney who has primary responsibility for each party's case. The attorney shall come prepared to discuss all liability issues, all damage issues, and the position of the party relating to settlement, in detail and good faith; and

(E) Other interested parties such as insurers or indemnitors, or one or more of their representatives, whose presence is necessary for a full resolution of the matter assigned to the ADR program.

(2) **Excuse.** A person required to attend the ADR Conference is excused from appearing if all parties and the mediator agree that the person need not attend the ADR Conference. The court for cause may excuse a person's attendance at the ADR Conference. Any party or attorney who is excused by the mediator from appearing in person at the ADR Conference may be required by the mediator to participate telephonically. Telephonic participation at the ADR Conference should be the exception rather than the rule and shall only be permitted upon good cause shown. This decision is within the mediator's sole discretion.

(3) **Failure to Attend.** Willful failure to attend any ADR Conference, and any other material violation of these Local Rules, shall be reported to the court by the mediator and may result in the imposition of sanctions by the court or other appropriate relief. Any such report of the mediator shall comply with the confidentiality requirements of the Local Rules. The court will take whatever action(s) it deems necessary and appropriate under the circumstances to resolve the issue of such willful failure to attend the ADR Conference and/or other violations of the Local Rules.

(e) **ADR Conference Procedures.** The mediator may establish appropriate procedures for the ADR Conference. The ADR Conference shall proceed informally. The Rules of Evidence shall not apply. There shall be no formal examination of witnesses.

(f) **Confidentiality of ADR Proceedings.**

(1) **Protection of Information Disclosed at ADR.** Unless otherwise agreed by the parties, the mediator and the participants in the ADR process are prohibited from divulging, outside of the ADR proceeding, any oral or written information disclosed by the parties or by witnesses in the course of the ADR Conference including the Submission of materials or any portion thereof. No person may rely on or introduce as evidence in any arbitral, judicial, or other proceedings, evidence pertaining to any aspect of the ADR proceeding, including but not limited to: (a) views expressed or suggestions made by a party with respect to a possible settlement of the dispute; (b) the fact that another party had or had not indicated willingness to accept a proposal for settlement made by the mediator; (c) proposals made or views expressed by the mediator; (d) statements or admissions made by a party in the course of the ADR Proceeding; and (e) documents prepared for the purpose of, in the course of, or pursuant to the ADR proceeding or Local Rules. In addition, without limiting the foregoing, and notwithstanding Local Rule 9072-8(e), Rule 408, Fed.R.Evid. and any applicable federal or state statute, rule, common law, or judicial precedent relating to the privileged nature of settlement discussions, mediation, or other ADR procedure shall apply. Information otherwise discoverable or admissible in evidence, however, does not become exempt from discovery, or inadmissible in evidence, merely by being used by a party in a ADR Conference.

(2) Discovery from Mediator. The mediator shall not be compelled to disclose to the court or to any person outside the ADR Conference any of the records, reports, summaries, notes, communications, testimony, or other documents received or made by a mediator while serving in such capacity. The mediator shall not testify or be compelled to testify in regard to the ADR proceeding in connection with any arbitral, judicial, or other proceeding. The mediator shall not be a necessary party in any proceeding relating to the ADR proceeding. Nothing contained in this subsection shall prevent the mediator from reporting the status, but not the substance, of the ADR proceeding to the court in writing, from filing a final report as required by Local Rule 9072-8(g), or from complying with any of the other obligations set forth in Local Rule 9072-9.

(3) Protection of Proprietary Information. The parties, the mediator, and all ADR participants shall protect proprietary information obtained during the ADR Conference.

(4) Preservation of Privileges. The disclosure by a party of privileged information to the mediator or at the ADR Conference does not waive or otherwise adversely affect the privileged nature of the information.

(g) Recommendation by Mediator. The mediator is not required to prepare written comments or recommendations to the parties. Mediators may present a written settlement recommendation memorandum to the attorneys or pro se litigants, but not to the court.

Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Rule 9072-9. Post ADR Procedures

(a) Preparation of Orders. If a settlement is reached at an ADR Conference, the party designated by the mediator shall submit a fully executed stipulation and proposed order to the court within 21 days after the conclusion of the ADR Conference. If the party designated by the mediator fails to prepare the stipulation and order proposed, the court may impose appropriate sanctions or other appropriate relief.

(b) Mediator's Certificate of Completion. Promptly after the conclusion of the ADR Conference, the mediator shall file with the court, and serve on the parties and the ADR Program Administrator, a certificate in the form provided by the court showing compliance or noncompliance with the Mediation Conference requirements of Local Rules 9072-1 through 9072-9 and whether or not a settlement has been reached. Regardless of the outcome of the ADR Conference, the mediator shall not provide the court with any details of the substance of the ADR Conference.

(c) Mediator's Report. In order to assist the ADR Program Administrator in compiling useful data to evaluate the ADR Program, and to aid the court in assessing the efforts of the members of the Panel, the mediator shall provide the ADR Program Administrator with an

estimate of the number of hours spent in the ADR Conference and other statistical and evaluative information on a form provided by the court. The mediator shall provide this report whether or not the ADR Conference results in settlement.

(d) Withdrawal from ADR. Upon the filing of a mediator's certificate pursuant to Local Rule 9072-9(b) or the entry of an order withdrawing a matter from ADR pursuant to Local Rule 9072-9(d), the ADR will be deemed terminated, and the mediator excused and relieved from further responsibilities in the matter without further court order. If the ADR Conference does not result in a resolution of all of the disputes in the assigned matter, the matter shall proceed to trial or hearing on all remaining issues pursuant to the court's scheduling orders.

(e) Termination of ADR. Upon the filing of the mediator's certificate pursuant to Local Rule 9072-9(b) or the entry of an order withdrawing a matter from ADR pursuant to Local Rule 9072-9(d), the ADR will be deemed terminated and the mediator excused and relieved from further responsibilities in the matter without further court order.

Notes 2009: Time deadlines have been amended to be consistent with amendments to the Federal Rules of Bankruptcy Procedure, effective December 1, 2009.

Rule 9076-1. Electronic Service

(a) NEF Constitutes Service on Registered CM/ECF Users. Registration as an ECF user constitutes consent to electronic service under FRCP 5. Receipt of the Notice of Electronic Filing (NEF) constitutes service on a registered CM/ECF user who has electronically filed a document in the case. The filer shall provide non-registered users with notice of the filing by other means in accordance with the FRBP.

(b) NEF Does Not Constitute Service. Electronic transmission of a NEF does not constitute service or notice of certain initiating documents. A filer must serve by hand-delivery, courier, mail, or email (if the party has consented to email service) the following documents:

(1) Service of a summons and involuntary petition under FRBP 1010;

(2) Service of a summons and complaint under FRBP 7004;

(3) Service of papers that commence a contested matter under FRBP 9014, e.g., a motion for stay relief or objection to claim;

(4) Service of a subpoena under FRBP 9016; and

(5) Where conventional service is otherwise required under the FRCP, FRBP, LRs, or by court order.

Notes 2018: New LR adopted to conform to amendments made to the FRCP 5 authorizing a party to use the Court' transmission facilities to make service under FRCP 5(b)(2)(E). Serving papers under FRCP 5 or FRBP 9022, including answers to complaints, motions in adversary proceedings, responses to motions, and notices of entry of judgment or order, is governed by

subparagraph (a) of this LR. Service on any party registered as an Electronic Case participant may be accomplished by the automatically generated NEF. This LR does not apply to initiating papers such as a complaint served under FRCP 4.