

United States Bankruptcy Court  
District of Arizona



Proposed Local Rules Amendments

Local Rules 1000-1 to 2015-1 & 2090-1 to 9071-1

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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)** “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.

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Notes 2018: LR amended to include different and additional definitions that were 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.

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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”.

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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. Other requirements for filing papers are found in LR 9004-1.

#### **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 e-mail address and, if the petitioner has an e-mail address, the petitioner must include the e-mail 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.

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Notes 2018: LR adds requirement for petitioner to list an e-mail 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.

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Notes 2018: New LR is designed to ensure 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 a debtor is represented by counsel, 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 shall 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.

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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 for fee waiver by a debtor represented by counsel may be filed only after counsel files a FRBP 2016(b) disclosure. Increases the minimum installment payment has been increased 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 e-mail 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.

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Notes 2018: To assist the Court in identifying undisclosed bankruptcy petition preparers, new subset (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. Consolidation or Joint Administration of Cases**

**(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 proofs of claims or interests and Monthly Operating Reports.

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

## **Rule 1017-1. Dismissal of Case**

**(a) Notice of Proposed Dismissal.** Notice of the proposed 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.** A debtor's motion must be served on the case trustee, the United States Trustee and any interested party who has appeared in the case with notice and an opportunity to object as required by LR 9013-1(c).

**(3) Objection.** If an objection is filed, the debtor must obtain a hearing from the Court and give notice of the hearing to the objecting party, the trustee and the United States Trustee.

**(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 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.

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Notes 2018: This rule was amended to comply with FRBP 1017 and 2002 and to formalize the reinstatement process. The LR also now 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 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.

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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 judge with that judge's consent.

(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.

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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://ncrs.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.

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Notes 2018: Under LR 5005-5, service through the Bankruptcy Court's Electronic Court Filing (ECF) system is proper service.

## **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 appropriate 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.

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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 movant 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.

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

### **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.

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Notes 2018: New LR clarifying that 2004 Orders are subject to reconsideration, protective orders, and 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.

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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.

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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 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.

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Notes 2018: Language simplified and pro hac vice procedures updated. Excludes federal and state government attorneys from rule 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 e-mail 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.

### **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, and must 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 Rule No. 3003-2 Order Setting Initial Hearing on Approval of Disclosure Statement. Service of the order must comply with FRBP 2002(b).

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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 Objection.** Any party objecting to a proof of claim must:

- (1) State a specific basis for disallowing the claim under Code § 502; and
- (2) Identify the claimant by name, as set forth in the official claims register, and the claim number in the caption of the objection, in any notice served in regard to the objection, and in any lodged order.

**(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 by the claimant, the objecting party may file a certificate of service and of no objection and lodge an order with the Court sustaining the objection.

**(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.

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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 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.

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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 proposed form of order may be lodged and served with a certification of service and of no objection. The order lodged must not grant relief greater than that requested in the motion or stipulation. 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 objector contends establish a lack of 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.

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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.

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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:

- (1) 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”);

- (2) 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;
- (3) 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;
- (4) Granting of liens or security interests against rights and actions arising under Code §§ 544, 545, 547, 548 or 549;
- (5) 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);
- (6) 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);
- (7) 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
- (8) 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).

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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 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. A request for lien avoidance under Code § 522(f) that is not included in a plan must be by motion in compliance with this LR. 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 lodge a proposed form of order granting the motion with a certificate of service and of no objection.

(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.

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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 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.

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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 e-mail 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.

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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 after the 14-day period and authorizes immediate disposal of paper documents.

### **Rule 5005-5. Electronic Service**

**(a) Notice of Electronic Filing.** The automatically generated Notice of Filing constitutes proper service on any party who is a registered Electronic Case Filing participant.

**(b) Service by E-Mail.** Service by email may be effected upon any party who has consented in writing. Service on a chapter 13 trustee must comply with LR 2084-28. Service must include the filed document as a pdf attachment.

**(c) U.S. Mail.** Nothing in this rule prevents service of a paper copy by U.S. Mail made in accordance with applicable local and federal rules.

**(d) Required Service of Paper Copies.** Unless ordered otherwise, a paper copy of electronically filed documents must be served on:

- (1)** The debtor, when service on the debtor is required;
- (2)** All creditors, when applicable law or Court order requires such service;
- (3)** All parties entitled to service who are not registered ECF participants or who have not otherwise consented in writing to service by electronic means; and
- (4)** On the assigned judge, if required by their procedures.

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Notes 2018: New LR adopted to conform to amendments made to the FRBP and District Court Rules. Service on any party registered as an Electronic Case participant may be accomplished by the automatically generated Notice of Filing. Proper service by email must include the filed document and service by mail remains an effective alternative to NEF service.

### **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.

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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.

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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.

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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.

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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, a proposed form of order may be lodged and served with a certificate of service and of no objection.
- (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.

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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 and upon submission of a certificate of service and of no objection, the trustee, debtor in possession, or movant may upload a form of order.
- (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.

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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 upload a form of order.

(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.

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Notes 2018: No substantive changes were 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.

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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. \_\_\_\_ (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.

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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. \_\_\_\_ (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.

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Notes 2018: LR amended to expand the contents of a Pre-Trial Statement and to require that it 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](http://www.azb.uscourts.gov). “Personal consultation” means a face-to-face meeting or phone discussion, in addition to emails, voice-mails, and texts.

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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, or within fourteen (14) days after entry of a judgment that allows costs, the prevailing party must file a verified cost statement together with a notice of application and a proposed form of taxation of costs.

**(b) Objections.** Unless ordered otherwise, the adverse party will have fourteen (14) days to file and serve any objection to the cost statement including any evidence supporting the objection.

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

### **Rule 9001-1. Reserved**

**[RESERVED]**

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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.** No documents, pleadings or motions other than those specified in these LR are to be dual captioned. The caption of an adversary complaint and all other documents filed in an adversary proceeding must be dual captioned. The first caption must include the debtor's name. The second caption must include the names of the plaintiffs and defendants. The caption must also include the adversary proceeding number once assigned.

**(d) Contested Matters or Certain Motions.** No documents, pleadings or motions other than those specified in these LR are to be dual captioned. The caption of a motion seeking relief from the stay and all subsequent pleadings related to the motion must be dual captioned. The first caption must include the debtor's name. The second caption must include the name of the movant and the respondent.

**(e) 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.

**(f) 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.

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

**(h) 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 5005-2(f). 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.

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

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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.

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Notes 2018: Subsections (c) and (d) have been 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.

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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](http://www.azb.uscourts.gov). "Personal consultation" means a face to face meeting or phone discussion, in addition to emails, voice-mails, 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, e-mail 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 requested relief, 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 requested relief 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.

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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 (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.

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

This LR has been updated to reference the new LR 2002-2 for proper noticing procedures in connection with matters done via negative notice. This LR is intended to provide a comprehensive list of all matters for which negative notice is allowed and may not be mentioned in any of the other LR. Other matters not specifically provided for in these LR may not be handled by negative notice absent specific Court order.

### **Rule 9014-1. Reserved**

**[RESERVED]**

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

### **Rule 9014-2. Consent and Objection to Bankruptcy Court Authority**

**(a) Initial Pleadings.** 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.

**(b) Objection to Authority.** Any initial motion, objection or other document objecting to the Court’s authority to enter final orders in the contested matter must contain a memorandum of points and authorities supporting the party’s objection. If no memorandum is included, the filing will be deemed the party’s consent to the authority of the Court to enter final orders. A statement objecting to the Court’s authority alone, without a supporting memorandum, is insufficient.

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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. \_\_\_\_ (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.

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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.

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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. 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 electronically file a Notice of Lodging the Judgment or Order 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 e-mail 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.

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Notes 2018: LR 9022-1 was amended to prohibit parties that are submitting proposed forms of order from including 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 granted. Finally, for consistency in electronically entered orders, that subsection was further amended to require that all orders must 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. \_\_\_\_ (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.

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Notes 2018: New LR 9023-1 was 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.