LOCAL BANKRUPTCY RULES

Effective October 21, 2024

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA

Edward R. Roybal Federal Building
255 E. Temple Street
Los Angeles, CA 90012
(855) 460-9641

www.cacb.uscourts.gov

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LBR 1001-1. TITLE, APPLICATION, AND SCOPE OF RULES

(a) **Title, Citation and Effective Date.** These are the Local Bankruptcy Rules of the United States Bankruptcy Court for the Central District of California (hereinafter, "Local Bankruptcy Rules" or "rules"). They may be cited as "LBR ______," and are effective as of the date stated above on the title page. The court in its discretion may order that a case or proceeding pending prior to the effective date be governed by the practice of the court prior to the adoption of these LBRs.

(b) **Application and Construction.**

(1) The Local Bankruptcy Rules are adopted pursuant to 28 U.S.C. § 2075, F.R.Civ.P. 83, and FRBP 9029. They are intended to supplement the FRBP and those portions of the F.R.Civ.P. that are incorporated by the FRBP. The Local Bankruptcy Rules are to be construed consistent with, and subordinate to, the FRBP and F.R.Civ.P. and to promote the just, speedy, and economic determination of every case and proceeding. Numbers for Local Bankruptcy Rules track numbers of related FRBP and FRBP Interim Rules, to the extent they exist.

(2) The Local Bankruptcy Rules apply to all bankruptcy cases and proceedings (including all cases removed pursuant to 28 U.S.C. § 1452 or 15 U.S.C. § 78eee) pending in the United States Bankruptcy Court for the Central District of California.

(3) The Local Bankruptcy Rules apply in the United States District Court for the Central District of California in lieu of the Central District of California Local Civil Rules when the district court is exercising its original bankruptcy jurisdiction pursuant to 28 U.S.C. § 1334.

(c) **Application to Persons Appearing without Counsel.** A person who appears and is not represented by counsel must comply with the Local Bankruptcy Rules. Each reference in the Local Bankruptcy Rules to "attorney" or "counsel" applies equally to a party who is not represented by counsel, unless the context otherwise requires.

(d) **Modification.** The Local Bankruptcy Rules apply uniformly throughout the district, but are not intended to limit the discretion of the court. The court may waive the application of any Local Bankruptcy Rule in any case or proceeding, or make additional orders as it deems appropriate, in the interest of justice.

(e) **Procedure in Absence of Rule.**

(1) A matter not specifically covered by these Local Bankruptcy Rules may be determined, if possible, by parallel or analogy to the F.R.Civ.P., the FRBP, or the Local Civil Rules.

(2) If no parallel or analogy exists, then the court may proceed in any lawful manner not

inconsistent with these Local Bankruptcy Rules and the FRBP.

(f) **Sanctions for Noncompliance with Rules.** The failure of counsel or of a party to comply with these Local Bankruptcy Rules, with the F.R.Civ.P. or the FRBP, or with any order of the court may be grounds for the imposition of sanctions pursuant to applicable law, including the Bankruptcy Code, the F.R.Civ.P., the FRBP, and the inherent powers of the court.

LBR 1001-2. RULES OF CONSTRUCTION

(a) **Construction of Terms**. As used in these rules –

(1) "must" is mandatory.

(2) "must not" is prohibitive, not permissive.

(3) "may" is discretionary.

(4) "or" is not exclusive.

(5) "includes" and "including" are not limiting.

(b) **Gender; Plurals.** Wherever applicable, each gender includes the other gender and the singular includes the plural.

(c) **Definitions.** Words and phrases listed in LBR 9001-1 will be construed according to the definitions contained in that rule.

LBR 1002-1. PETITION AND CASE COMMENCEMENT DOCUMENTS GENERAL

(a) **Debtor's Street Address**.

(1) Filed with Petition. In a petition filed under 11 U.S.C. §§ 301, 302, 303, or 1504, the debtor's actual street address must be disclosed in addition to any post office box address.

(2) Change of Address. Using the court-approved form, pursuant to FRBP 4002(a)(5), a debtor must file and serve a change of address each time a debtor's street address or post office box changes.

(b) **Attorney Information**.

(1) General. A voluntary petition filed pursuant to 11 U.S.C. §§ 301 and 302 by an attorney on behalf of any party must contain the attorney's state bar identification number, telephone number, fax number, and email address in the attorney name block.

(2) Signature of Counsel. The name of the attorney signing a petition must be printed clearly below the signature line.

(c) Required Case Commencement Documents.

A list of all documents required to file a voluntary bankruptcy case under chapter 7, 11, and 13, is contained in The Central Guide and Petition Packages.

(d) Redaction of Personal Identifiers.

(1) Unless otherwise ordered by the court, a party in interest must redact where inclusion is necessary, the following personal identifiers from all lists, schedules, statements, payment advices, or other documents filed or required to be filed with the court in accordance with FRBP 9037(a):

(A) Social Security Numbers. If disclosure of a social security number is required, only the last four digits of that number should be used. [This does not apply to Official Form 121, Statement About Your Social Security Numbers].

(B) Names of Minor Children. If disclosure of the identity of any minor child is required, only the initials of that child should be used.

(C) Date of Birth. If disclosure of an individual's date of birth is required, only the year should be used.

(D) Financial Account Numbers. If disclosure of any financial account number is required, only the last four digits of that number should be used.

(2) The responsibility for redacting these personal identifiers rests solely with the debtor and debtor's counsel. The court will not review documents for compliance with this rule.

(3) If the debtor wishes to block public access to a filed document containing a personal identifier, a motion is required and may be filed and served pursuant to LBR 9037-1.

(e) Effect of Failure to Specify Necessary Information.

(1) If the petition fails to specify the chapter under which relief is sought, the case will be deemed to have been filed under chapter 7.

(2) If the petition fails to specify whether it is a consumer or business case, it will be presumed to be a consumer case.

(3) If the petition fails to indicate the number of creditors or equity holders, or the amount of assets or debts, it will be presumed that the case falls in the smallest category of each.

LBR 1006-1. PETITION FILING FEES

(a) Payment of the Petition Filing Fee in Installments.

(1) Eligibility. Only an individual debtor who is unable to pay the full filing fee for a voluntary petition under chapter 7, 11, 12, or 13, may apply for permission to pay the filing fee in installments. A corporation, partnership, limited liability company, unincorporated association, trust, or other artificial entity must pay the filing fee in full at the time the petition is filed.

(2) Application. The debtor must file a written application for an order permitting payment of the filing fee in installments. The application must be accompanied by a declaration under penalty of perjury establishing that the debtor is unable to pay the filing fee except in installments. The application and declaration must be completed on forms prescribed by the court and presented for filing with the petition. If unrepresented by an attorney, or if required by the court, the debtor must also present evidence of personal identification in the form of a valid government-issued driver's license or identification card, or other similar form of identification satisfactory to the clerk.

(3) Hearing. On the petition date or at a later date and time the designated judge may select for a hearing, the debtor must appear personally before a designated judge to present the application, supporting declaration, and proposed order. The debtor must provide sworn testimony regarding the basis for the application and circumstances of the bankruptcy filing. Unless the court expressly waives the requirement of personal appearance, the debtor's failure to appear and testify at the prescribed time and place will result in denial of the application and dismissal of the bankruptcy case.

(4) Notice. Compliance with the notice and service requirements of LBR 9013-1 is not required, unless otherwise ordered by the designated judge.

(5) Order. An order authorizing payment of the filing fee in installments must fix the number of installments and the amount and due date of each installment. The number of installments must not exceed 4. The final installment is payable not later than 120 days after the filing of the petition, unless extended by the court for cause shown to a date not later than 180 days after the petition date. The first payment must be at least $30, unless otherwise ordered by the court.

(6) Dismissal for Nonpayment. The debtor's failure to pay any installment when due may result in dismissal of the case without further notice and hearing.

(b) Waiver of Chapter 7 Filing Fee.

(1) Eligibility. Only an individual debtor may file an application to waive the filing fee in a chapter 7 case.

(2) Application. The debtor must submit a written application for an order waiving payment of the filing fee in a chapter 7 case. The application must be accompanied by a declaration under penalty of perjury establishing that the debtor qualifies for a waiver and is unable to pay the filing fee. The application and declaration must be completed on forms prescribed by the court and presented for filing with the petition. If unrepresented by an attorney, or if required by the court, the debtor must also present evidence of personal identification in the form of a valid government-issued driver's license or identification card, or other similar form of identification satisfactory to the clerk.

(3) Hearing. On the petition date or at a later date and time the designated judge may select for a hearing, the debtor must appear personally before a designated judge to present the application, supporting declaration, and proposed order. The debtor must provide sworn testimony regarding the basis for the application and circumstances of the bankruptcy filing. Unless the court specifically waives the requirement of personal appearance, the debtor's failure to appear and testify at the prescribed time and place will result in denial of the application and dismissal of the bankruptcy case.

(4) Notice. Compliance with the notice and service requirements of LBR 9013-1 is not required, unless otherwise ordered by the designated judge.

(5) Order. An order denying an application to waive the chapter 7 filing fee may provide for payment of the filing fee in installments pursuant to LBR 1006-1(a)(5).

LBR 1007-1. LISTS, SCHEDULES, AND STATEMENTS

(a) Master Mailing List.

(1) General. A master mailing list must be filed with the voluntary petition in the format specified in The Central Guide. Unless otherwise ordered, the master mailing list must include the name, mailing address, and zip code of each creditor listed on Schedules D, E/F, G, and H.

(2) Partnerships, Corporations, Limited Liability Companies, and Other Eligible Entities. If the debtor is a partnership, corporation, limited liability company, or other eligible entity, the master mailing list must include the name and address of each general partner, senior corporate officer, or managing member. A list of all limited partners, shareholders, or other equity holders must be provided either as part of the master mailing list or as a separate "Equity Holders' Mailing List." The Equity Holders' Mailing List must comply with the format requirements of subsection (a)(1) of this rule.

(3) Verification of Completeness and Accuracy.

(A) The debtor, or such other person as the court may order, is responsible for the accuracy and completeness of the master mailing list, any supplement to the master mailing list, and the Equity Holders' Mailing List.

(B) The master mailing list and any supplement must be accompanied by a declaration by the debtor or debtor's counsel attesting to the completeness and correctness of the list.

(C) If the master mailing list or any supplement is submitted in a court-approved electronic format and the electronic file is prepared by someone other than the debtor or debtor's counsel, a further declaration must be submitted by the preparer to attest to the accuracy of the electronic file as it relates to the information provided by the debtor or debtor's counsel.

(D) The clerk will not compare the names and addresses of the creditors listed in the schedules with the names and addresses shown on the master mailing list or any supplement.

(4) Amendment. When an addition or change is required to the master mailing list, a supplemental master mailing list, in the required format, containing only the newly added or changed creditors must be filed. The supplement must not repeat those creditors on the original master mailing list.

(b) Extension of Time to File Lists, Schedules, Statements, and Other Documents.

(1) A motion for an extension of time to file the lists of creditors and equity security holders, or to file the schedules, statements, and other documents, must: (A) identify the date the petition was filed, and the date of the proposed new deadline; (B) be supported by a declaration under penalty of perjury establishing a sufficient explanation for the requested extension of time; and (C) contain a proof of service upon the case trustee (if any) and all creditors.

(2) The motion may be ruled upon without a hearing pursuant to LBR 9013-1(p).

(3) If the court grants the motion, the court may dismiss the case without further notice and hearing if any list, schedule, statement, or plan (in chapter 13 cases) is not filed within the additional time allowed by the court.

(c) Amendment of List, Schedule or Statement. When an amended list, schedule or statement is filed, it must be accompanied by a Summary of Amended Schedules, Master Mailing List, and/or Statements using the court-approved form.

LBR 1007-4. DISCLOSURE OF CORPORATE RELATIONSHIPS

(a) **Mandatory Statement.** A debtor that is a corporation, other than a governmental unit, must file with the petition a corporate ownership statement that either identifies any corporation, other than a governmental unit, that directly or indirectly owns 10% or more of any class of the debtor corporation's equity interests or states that there are no such entities to report.

(b) **Supplemental Statement.** The debtor must file a supplemental statement promptly upon any change in circumstances that this rule requires the debtor to identify or disclose.

LBR 1010-1. INVOLUNTARY PETITIONS

The court may dismiss an involuntary petition without further notice and hearing if the petitioner fails to (a) prepare a Summons and Notice of Status Conference in an Involuntary Bankruptcy Case on the court-mandated form; (b) at the same time the involuntary petition is filed, submit the Summons and Notice of Status Conference to the clerk for issuance; (c) serve the summons and petition within the time allowed by FRBP 7004; (d) file a proof of service of the summons and petition with the court; or (e) appear at the status conference set by the court.

LBR 1015-1. CONSOLIDATION AND JOINT ADMINISTRATION

(a) **Joint Cases.** A joint case commenced for spouses by the filing of a single petition under 11 U.S.C. § 302(a) will be deemed substantively consolidated unless the court orders otherwise.

(b) **Joint Administration of Cases Pending Before the Same Judge.**

(1) Motion. If 2 or more cases are pending before the same judge, an order of joint administration may be entered, without further notice and an opportunity for hearing, upon the filing of a motion for joint administration pursuant to FRBP 1015 and LBR 9013-1(q), supported by a declaration establishing that the joint administration of the cases is warranted, will ease the administrative burden for the court and the parties, and will protect creditors of the different estates against potential conflicts of interest.

(2) Order. An order granting a motion to approve joint administration must be lodged using the court-approved form. An order of joint administration under this rule is for procedural purposes only and shall not effect a substantive consolidation of the respective debtors' estates.

(3) Notice. Promptly upon entry of an order granting a motion for joint administration, the movant must file and serve, using the court-approved form, a Notice of Joint Administration and Requirements for Filing Documents.

(c) **Reassignment of Cases Not Assigned to the Same Judge.** A motion for joint

administration or for substantive consolidation must include a motion under LBR 1073-1 to reassign the cases to be jointly administered or substantively consolidated if those cases are not all assigned to one judge.

LBR 1015-2. RELATED CASES

(a) Definition of Related Cases. For purposes of this rule, cases are deemed "related cases" if the earlier bankruptcy case was filed or pending at any time before the filing of the new petition, and the debtors in such cases:

(1) Are the same;

(2) Are spouses, former spouses, domestic partners, or former domestic partners;

(3) Are "affiliates," as defined in 11 U.S.C. § 101(2), except that 11 U.S.C. § 101(2)(B) shall not apply;

(4) Are general partners in the same partnership;

(5) Are a partnership and one or more of its general partners;

(6) Are partnerships that share one or more common general partners; or

(7) Have, or within 180 days of the commencement of either of the related cases had, an interest in property that was or is included in the property of another estate under 11 U.S.C. § 541(a), § 1115, § 1207, and/or § 1306.

(b) Disclosure of Related Cases.

(1) A petition commencing a case must be accompanied by court-mandated form F 1015-2.1.STMT.RELATED.CASES, Statement of Related Cases.

(2) The petitioner must execute court-mandated form F 1015-2.1.STMT.RELATED.CASES under penalty of perjury disclosing, to the petitioner's best knowledge, information and belief, whether a related case was filed or has been pending at any time and if so, for each such related case:

(A) The name of the debtor in the related case;

(B) The case number of the related case;

(C) The district and division in which the related case is or was pending;

(D) The judge to whom the related case was assigned;

(E) The current status of the related case;

(F) The manner in which the cases are related; and

(G) The real property, if any, listed in the Schedule A/B that was filed in the related case.

(3) The failure to provide complete and accurate information in court-mandated form F 1015-2.1.STMT.RELATED.CASES may subject the petitioner and its attorney to appropriate sanctions, including the appointment of a trustee or dismissal of the case with prejudice.

LBR 1016-1. DEATH OR INCOMPETENCY OF DEBTOR

When the death or incompetency of a debtor has occurred, an order continuing administration of a case under chapter 11, 12 or 13 of the Code requires a motion that meets the standard of FRBP 1016 and complies with LBR 9013-1.

LBR 1017-1. CONVERSION

(a) Conversion Upon Debtor's Request.

(1) First Time Conversion from Chapter 12 or 13 to Chapter 7. A debtor's notice of conversion under 11 U.S.C. §§ 1208(a) or 1307(a) must be filed and served on the standing trustee and United States trustee. No hearing is required for conversion.

(2) Conversion from Chapter 12 or 13 to Chapter 11.

(A) Chapter 12 to Chapter 11. A debtor or other party in interest must request conversion under 11 U.S.C. § 1208(e) by motion filed and served as required by LBR 9013-1(d) or (o).

(B) Chapter 13 to Chapter 11. A debtor must request conversion under 11 U.S.C. § 1307(d) in accordance with the procedure set forth in LBR 3015-1(q)(2)(C).

(3) Conversion from Chapter 11 to another Chapter. A debtor must request conversion under 11 U.S.C. § 1112(a) by motion filed and served as required by FRBP 9013, and may be ruled on without a hearing pursuant to LBR 9013-1(p).

(4) Conversion from Chapter 7 to Chapter 11, 12 or 13. A debtor must request conversion under 11 U.S.C. § 706(a) to a case under chapter 11, 12 or 13 by motion which, unless otherwise ordered by the court, may be granted only after notice of opportunity to request a hearing to the trustee, attorney for the trustee (if any), United States trustee, and parties in interest, as provided in LBR 9013-1(o).

(b) Additional Fees Upon Conversion of a Case.

(1) A notice of conversion or motion for conversion of a case, whichever is required, must be accompanied by payment of the filing fee, if any, required for conversion

of the case to the chapter for which conversion is sought.

(2) If a request to convert to chapter 11 is denied, the filing fee paid when the motion was filed will be refunded to the payor upon written request to the Fiscal Department of the clerk's office. A conformed copy of the order denying the request to convert to chapter 11 must be attached to the request for refund.

(3) If a request to convert a case to chapter 7 is denied, the filing fee paid when the request was filed will not be refunded.

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

(a) Dismissal for Failure to File Case Commencement Documents.

(1) Grounds or "Cause" for Dismissal. The failure of the person or entity who filed a petition to file in a timely manner any case commencement document required by the Bankruptcy Code, the FRBP, and these rules is grounds or "cause" for dismissal of the case.

(2) Notice of Deficiency. If a petition is filed without all of the documents required by the Bankruptcy Code, the FRBP, and these rules, the clerk will issue a notice to the petitioner that identifies each of the deficiencies and states that the case will be dismissed without further notice or hearing if the documents listed in the notice, or a request for extension of time within which to file the required documents, are not filed within 14 days from the filing of the petition.

(3) Dismissal Without Further Notice. If the required documents are not filed within 14 days from the filing of the petition or an extension of such 14-day period granted by an order of the court, the case will be dismissed without further notice or hearing.

(b) Dismissal of Chapter 7 Case for Failure to Attend Meeting of Creditors. The failure of a chapter 7 debtor to appear at the initial meeting of creditors and any continuance thereof is cause for dismissal of the case. Pursuant to LBR 9013-1(q), the court will dismiss the case without a hearing upon the trustee's motion for dismissal and declaration that the debtor has failed to appear at two meetings of creditors.

(c) Motion to Vacate Dismissal.

(1) Any motion requesting that the dismissal of a case for failure to timely file a required document or for failure to appear at the meeting of creditors be vacated must include as exhibits to the motion all of the documents that were not timely filed and must be supported by a declaration under penalty of perjury establishing a sufficient explanation why the documents were not timely filed. The motion may be ruled on without further notice or hearing pursuant to LBR 9013-1(q).

(2) In the event a dismissal order is vacated, the court may impose sanctions as it deems just and reasonable.

(d) **Filing a Subsequent Case.** A petitioner who files a petition following the dismissal of a case must disclose the dismissed case pursuant to LBR 1015-2.

(e) **Motion to Dismiss or Suspend Proceedings**.

(1) A motion by the debtor to dismiss a case filed under 11 U.S.C. §§ 301 or 302, a motion by creditors or the debtor to dismiss an involuntary case filed under 11 U.S.C. § 303, or a motion to suspend all proceedings under 11 U.S.C. § 305 must be supported by a declaration under penalty of perjury setting forth the reasons for the request for dismissal or suspension.

(2) The declaration in support of the motion must disclose any arrangement or agreement between the debtor and creditors or any other person in connection with the motion for dismissal or suspension.

(3) The court may condition the dismissal upon payment of fees and expenses, including fees due to the United States trustee.

(f) **Retention of Jurisdiction.** Notwithstanding any dismissal, the court retains jurisdiction regarding all issues involving sanctions, any bar against being a debtor in bankruptcy, all issues arising under 11 U.S.C. §§ 105, 107, 109(g), 110, 303, 329, 330, 349, 362, and 364, and to any additional extent permissible under applicable law.

LBR 1071-1. DIVISIONS – PLACE OF FILING

(a) **Filing of Petition**. Unless otherwise ordered by the court, a petition commencing a case under the Bankruptcy Code must be filed with the Clerk of the United States Bankruptcy Court for the Central District of California in the "applicable division."

(1) The "applicable division" is determined by the location of the debtor's residence, principal offices, officers, and books and records, or where the majority of the debtor's assets are located based on a book value determination as set forth on the debtor's most current balance sheet.

(2) Information concerning the "applicable division" for the filing of the petition is contained in The Central Guide.

(b) **Petition Filed in Wrong Division.** If a petition is filed in the wrong division, the court may, on its own, transfer it to the appropriate division or retain the case.

(c) **Filing of Documents Other Than a Petition.** Documents filed non-electronically, other than a petition, must be filed only in the divisional office of the clerk to which the relevant case or proceeding has been assigned. However, the clerk may, by special waiver or upon order of the court, accept documents in any office of the clerk irrespective of division.

LBR 1073-1. ASSIGNMENT OR REASSIGNMENT OF CASES AND PROCEEDINGS

(a) Assignment or Reassignment of Related Cases and Proceedings. The court will assign or reassign related cases or proceedings pursuant to the procedures established by the court's General Orders or as provided in The Central Guide.

(b) Motion for Reassignment or Consolidation of Related Cases or Proceedings.

(1) A motion by a party in interest for reassignment or consolidation of related bankruptcy cases or adversary proceedings must be made to the judge to whom the low-numbered case is assigned.

(2) The motion must be filed and served in accordance with LBR 9013-1(o). Notice must be given to the debtor or debtor in possession, the trustee (if any), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002. Notice of a motion seeking the reassignment or consolidation of an adversary proceeding must be given to each party named in the adversary proceeding. A judge's copy of the motion must also be served in chambers on the higher-numbered judge.

LBR 2002-1. NOTICE TO AND SERVICE UPON CREDITORS AND OTHER INTERESTED PARTIES

(a) Request to Designate Address for Authorized Agent Pursuant to FRBP 2002(g).

(1) Title. The title in the caption of the request must be "Request to Designate Address for Authorized Agent Pursuant to FRBP 2002(g)."

(2) Contents. A person or entity filing a request for notices to be served on an authorized agent pursuant to FRBP 2002(g) must include in the request for notice: (A) name of the person or entity requesting notice; (B) mailing address, including street address for overnight delivery or personal service; (C) telephone number; (D) facsimile number; (E) email address; (F) name of the person or entity whom the authorized agent represents; and (G) whether or not the authorized agent is a registered CM/ECF user.

(3) Consent to Electronic Notice and Service. Subject to the provisions of LBR 9036-1, if an authorized agent is a registered CM/ECF user, the agent is deemed to consent to receive electronic notice and service from the clerk and parties in interest in the case or proceeding.

(b) Request for Notice Despite Order Limiting Notice to Committees.

(1) Contents. A person or entity filing a request for notices served pursuant to FRBP 2002 must include in the request for notice: (A) name of the person or entity requesting notice; (B) mailing address, including street address for overnight delivery or personal service; (C) telephone number; (D) facsimile number; (E) email address; (F) name of the person or entity represented, if any; (G) a statement that the requesting party is a creditor and/or equity security holder of the debtor and notice is requested on the basis of the court having limited notice to a committee; and (H) a statement that the request is limited to notices required to be provided under FRBP 2002(a)(2), (a)(3), and (a)(6) and does not include any moving or responsive or reply documents, any evidence, or any proposed orders or entered orders.

(2) Consent to Electronic Notice. Subject to the provisions of LBR 9036-1, a creditor or equity security holder of the debtor filing a request for notice under subsection (b)(1) of this rule is deemed to consent to receive electronic notice from the clerk and parties in interest in the case or proceeding.

(c) Mailing List in Chapter 9 and 11 Cases. In chapter 9 and 11 cases only, the debtor in possession or trustee must maintain a current mailing list of entities who have served a request for notice pursuant to FRBP 2002 and must promptly furnish a copy of that list upon the request of any creditor or other interested party.

(d) Notice of Address in a Specific Case. Pursuant to 11 U.S.C. § 342(e), a creditor may file a Notice of Address to be Used in Specific Case using the court-approved form.

(e) Request to be Added to Courtesy NEF.

(1) Filing. Any person or entity registered as a CM/ECF User may file a Request to be Added to Courtesy NEF in any case or proceeding, using the court-approved form.

(2) Consent to Electronic Notice and Service. Subject to the provisions of LBR 9036-1, a person or entity who files a Request to be Added to Courtesy NEF consents to electronic notice and service from the clerk and parties in interest in the case or proceeding.

(3) No Duty. The filing of a Request to be Added to Courtesy NEF does not create a duty on the clerk or any party in interest to provide notice or service of any document.

(f) Notice of Hearing on Chapter 15 Petition for Recognition. To comply with FRBP 2002(q), at the same time a petition for recognition of foreign proceeding is filed, the foreign representative must: (1) submit to the clerk the mandatory LBR form Order and Notice Setting Hearing on Chapter 15 Petition for Recognition, and (2) serve the Order and Notice Setting Hearing on Chapter 15 Petition for Recognition promptly after it is issued/docketed by the clerk.

LBR 2002-2. NOTICE TO AND SERVICE UPON THE UNITED STATES OR FEDERAL AGENCIES

(a) United States Trustee.

(1) Duty to Provide Notice to and Service Upon the United States trustee. Pursuant to FRBP 2002(k), FRBP 9034 and these rules, and unless otherwise directed, a copy of any document filed by a person or entity in a bankruptcy case or adversary proceeding under chapters 7, 9, or 11 must be served upon the United States trustee. In chapter 12 or 13 cases, only a notice of conversion or motion to convert the case to another chapter must be served upon the United States trustee. Proofs of claim or copies thereof must not be served upon the United States trustee.

(2) Consent to Electronic Notice and Service of Documents Filed with the Court. Notwithstanding subsection (a)(1) of this rule, and except as provided in subsection (a)(3) of this rule, the United States trustee consents to electronic notice and service of any document filed in a bankruptcy case or adversary proceeding.

(A) Electronic Notice. The electronic transmission to the United States trustee of an NEF or a notice through the Bankruptcy Noticing Center constitutes notice to the United States trustee of a document filed in a bankruptcy case or adversary proceeding, including notice of entry of an order or judgment, whether it is the duty of the clerk or another person or entity to give such

notice. A proof of service prepared and filed pursuant to LBR 9013-3 must state that the United States trustee will be served electronically by the court.

(3) Electronic Service. The electronic transmission to the United States trustee of an NEF regarding a document filed in a bankruptcy case or adversary proceeding, which is required to be served on the United States trustee pursuant to FRBP 2002(k), FRBP 9022, FRBP 9034 or these rules, constitutes service of the document on the United States trustee. A proof of service prepared and filed pursuant to LBR 9013-3 must state that the United States trustee will be served electronically by the court.

(4) Exceptions to Electronic Notice and Service. Notwithstanding the foregoing and in addition to the exceptions to electronic notice and service set forth in LBR 9036-1(a)(2), the following documents must be served on the United States trustee nonelectronically:

(A) Any and all subpoenas directed to the United States trustee, or the Office of the United States trustee or its staff;

(B) Complaints and any other papers in adversary proceedings served upon the United States trustee as a defendant–persons and entities must comply with FRBP 7004(b)(10) when the United States trustee is named in an adversary proceeding as a party, whether or not the United States trustee is a trustee in the case;

(C) Any document served upon the United States trustee and/or any of the United States trustee's staff in their capacity as individuals–the service of any such document must comply with Rule 4 of the F.R.Civ.P. and with any and all other applicable rules of civil, bankruptcy and/or appellate procedure; and

(D) All documents in any adversary proceeding or contested matter in which the United States trustee files and serves a request for nonelectronic service.

(5) Telephonic Notice of Hearing Set on an Emergency Basis or Shortened Notice. Telephonic notice of a hearing set on an emergency basis or hearing set on shortened notice basis pursuant to LBR 9075-1 must be given to the United States trustee if the United States trustee would otherwise be entitled to notice of the type of motion or hearing.

(6) Place of Service for Nonelectronic Notice or Service. For documents for which the United States trustee has not consented to electronic notice and service, the United States trustee must be served nonelectronically at the applicable mailing address listed in the Register of Federal and State Governmental Unit Addresses contained in The Central Guide.

(b) United States Attorney. The United States attorney for this district has waived notice under FRBP 2002(j). If notice is required in a case of proceeding, the United States

attorney must file a request for notice with the court and serve the debtor, debtor's attorney (if any), the United States trustee, any trustee, and the representatives of any committee appointed in a case.

(c) **Internal Revenue Service**.

(1) General Notice Matters. Except with respect to contested matters or adversary proceedings (where service must comply with the requirements of FRBP 7004 and LBR 2002-2(c)(2)), or as otherwise ordered by the court, the United States Internal Revenue Service must be served at the address listed in the Register of Federal and State Governmental Unit Addresses contained in The Central Guide.

(2) Adversary Proceedings and Contested Matters. In all contested matters and adversary proceedings involving the United States Internal Revenue Service, the United States, the Attorney General in Washington D.C., and the United States attorney in Los Angeles must be served at addresses listed in the Register of Federal and State Governmental Unit Addresses contained in The Central Guide.

LBR 2004-1. MOTIONS FOR EXAMINATION UNDER FRBP 2004

(a) **Conference Required.** Prior to filing a motion for examination or for production of documents under FRBP 2004, the moving party must attempt to confer (in person or telephonically) with the entity to be examined, or its counsel, to arrange for a mutually agreeable date, time, place, and scope of an examination or production.

(b) **Motion.** A motion for examination under FRBP 2004 must be filed stating the name, place of residence, and the place of employment of the entity to be examined, if known. The motion must include a declaration of counsel stating whether the required conference was held and the efforts made to obtain an agreeable date, time, place, and scope of an examination or production. The motion must also explain why the examination cannot proceed under FRBP 7030 or 9014.

(c) **Notice and Service.** The motion must be served on the debtor, debtor's attorney (if any), the trustee (if any), the United States trustee, and the entity to be examined. Not less than 21 days notice of the examination must be provided, calculated from the date of service of the motion, unless otherwise ordered by the court.

(d) **Order**. Unless otherwise ordered by the court, a motion for examination will be ruled on without a hearing pursuant to LBR 9013-1(p).

(e) **Subpoena.** If the court approves a Rule 2004 examination of an entity other than the debtor, the attendance of the entity for examination and for the production of documents must be compelled by subpoena issued, and served pursuant to FRBP 9016 and F.R.Civ.P. 45.

(f) **Protective Order.** The party whose examination is requested may file a motion for protective order if grounds exist under FRBP 7026 and F.R.Civ.P. 26(c). A motion for

protective order must be filed and served not less than 14 days before the date of the examination, and set for hearing not less than 2 days before the scheduled examination, unless an order setting hearing on shortened notice is granted by the court pursuant to LBR 9075-1. The parties may stipulate, or the court may order, that the examination be postponed so that the motion for protective order can be heard on regular notice under LBR 9013-1(d).

(g) **Disputes.** The parties must seek to resolve any dispute arising under this rule in accordance with LBR 7026-1(c).

LBR 2010-1. BONDS OR UNDERTAKINGS

(a) **Bonds, Undertakings, Approval, Third-party Sureties, Security, and Qualification.**

(1) Approval. The clerk is authorized to approve on behalf of the court all bonds, undertakings, and stipulations of security given in the form and amount prescribed by statute, order of the court, or stipulation of counsel, which comply with the requirements of this rule and contain a certificate by an attorney, as set forth below, except where the approval of a judge is specifically required by law.

(2) Third-party Sureties. No bond or undertaking requiring third-party sureties will be approved unless it bears the names and addresses of sufficient third-party sureties and is accompanied by a declaration by the surety stating that:

(A) The surety is a resident of the State of California;

(B) The surety who intends to deed real property as security owns the real property within the State of California;

(C) The security posted by the surety is worth the amount specified in the bond or undertaking, over and above just debts and liabilities; and

(D) The property, real or personal, which is to be conveyed as security is not exempt from execution and prejudgment attachment.

If specifically approved by the court, real property in any other state of the United States may be part of the surety's undertaking.

(3) Terms and Conditions for Corporate Sureties. Before any corporate surety bond or undertaking is accepted by the clerk, the corporate surety must have on file with the district court clerk or the clerk a duly authenticated copy of a power of attorney appointing the agent executing the bond or undertaking. The appointment must be in a form to permit recording in the State of California.

(4) Ineligible Persons. No clerk, deputy clerk, marshal, magistrate judge, bankruptcy judge, district judge, attorney, or other officer of this court will be accepted as surety upon any bond or undertaking in any action or proceeding in this court.

(5) Cash in Lieu of Bond. Cash may be deposited with the clerk in lieu of any bond or undertaking requiring a personal or corporate surety. A cash deposit in lieu of a bond is subject to all of the provisions of this rule, LBR 7067-1, the FRBP and the F.R.Civ.P. applicable to bonds and undertakings.

(b) **Certificate by Attorney.** A bond or undertaking presented to the clerk for acceptance must be accompanied by a certificate by the attorney for the presenting party in substantially the following form:

"This bond (or undertaking) has been examined pursuant to LBR 2010-1 and is recommended for approval. It (is)(is not) required by law to be approved by a judge.

________________ ______________________________"
Date Attorney

The attorney's certificate pursuant to this rule certifies to the court that:

(1) The attorney has carefully examined the bond or undertaking;

(2) The attorney knows the content of the bond or undertaking;

(3) The attorney knows the purpose for which the bond or undertaking is executed;

(4) In the attorney's opinion, the bond or undertaking is in due form;

(5) The attorney believes the declarations of qualification by the surety are true; and

(6) The attorney has determined whether the bond or undertaking is required by law to be approved by a judge.

(c) **Approval of Judge**. If a bond or undertaking is required by law to be approved by a judge, it must be presented to the judge with the attorney's certificate required by this rule before it is filed by the clerk, and may be approved without a hearing pursuant to LBR 9013-1(q).

(d) **Consent to Summary Adjudication of Obligation.**

(1) A bond or undertaking presented for filing must contain the consent and agreement for the surety that in case of default or contumacy on the part of the principal or surety, the court may upon 14 days notice filed and served pursuant to LBR 9013-1(d) or (o), proceed summarily and render a judgment in accordance with the obligation undertaken and issue a writ of execution upon that judgment in compliance with LBR 7064-1(a).

(2) An indemnitee or party in interest seeking a judgment on a bond or undertaking must proceed by Motion for Summary Adjudication of Obligation and Execution. The motion must be served on a personal surety in the manner provided in F.R.Civ.P. 5(b). A corporate surety must be served in accordance with 31 U.S.C.

§ 9306.

(e) **Bonds of Trustees**. A bond required by a trustee under 11 U.S.C. § 322 is exempt from this rule. The United States trustee must set the amount of such bond and approve the sufficiency of the surety.

LBR 2014-1. EMPLOYMENT OF DEBTOR'S PRINCIPALS IN CHAPTER 11 CASES, AND PROFESSIONAL PERSONS

(a) **Employment of Debtor's Principals or Insiders in Chapter 11 Cases.**

(1) Notice of Setting/Increasing Insider Compensation. No compensation or other remuneration may be paid from the assets of the estate to a debtor's owners, partners, officers, directors, shareholders, or relatives of insiders as defined by 11 U.S.C. § 101(31), from the time of the filing of the petition until the confirmation of a plan nor may approved compensation be increased unless the debtor serves a Notice of Setting/Increasing Insider Compensation ("Notice") in accordance with procedures adopted by the United States trustee pursuant to this rule.

(2) Service of Notice. The debtor must: (A) serve the Notice on the United States trustee, the creditors' committee or the 20 largest creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, and any secured creditor that claims an interest in cash collateral, and (B) provide proof of service to the United States trustee. As a non-filed document, the Notice does not result in the generation and delivery of an NEF, and therefore consent to electronic service via NEF on the United States trustee and other CM/ECF Users is not applicable to the Notice.

(3) Payment of Insider Compensation. An insider may receive compensation or other remuneration from the estate if no objection is received within 14 days after service of the Notice. An insider may receive an increase in the amount of insider compensation or other remuneration previously approved if no objection is received within 30 days after service of the Notice.

(4) Objection and Notice of Hearing. If an objection is timely received, the debtor must set the matter for hearing. The debtor must file a true and correct copy of the Notice, objection, and the original notice of hearing. The debtor must serve not less than 21 days notice of the date and time of the hearing on the objecting party and the United States trustee.

(b) **Employment of Professional Persons.**

(1) Application for Employment.

(A) An application seeking approval of employment of a professional person pursuant to 11 U.S.C. §§ 327, 328, 1103(a), or 1114 must comply with the requirements of FRBP 2014 and 6003(a) and be filed with the court. The

application must specify unambiguously whether the professional seeks compensation pursuant to 11 U.S.C. § 328 or 11 U.S.C. § 330.

(B) The application must be accompanied by a declaration of the person to be employed establishing disinterestedness or disclosing the nature of any interest held by such person.

(C) The application must contain proof of service upon the United States trustee, and may be served and ruled on pursuant to LBR 9013-1(o).

(D) A chapter 7 trustee who seeks authorization to act as attorney or accountant for the estate, or to employ the trustee's firm in such capacity, must explain why such employment is in the best interests of the estate.

(E) A timely application for employment is a prerequisite to compensation from the estate. Therefore, an application for the employment of counsel for a debtor in possession should be filed as promptly as possible after the commencement of the case, and an application for employment of any other professional person should be filed as promptly as possible after such person has been engaged.

(F) The substitution of an attorney must also comply with LBR 2091-1(b).

(2) Notice of Application.

(A) Notice of an application by the debtor (if such application is required), debtor in possession or trustee to retain a professional person must be filed and served, in accordance with LBR 2002-2(a) and LBR 9036-1, on the United States trustee, the debtor (if a trustee has been appointed), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, and any other party in interest entitled to notice under FRBP 2002.

(B) Notice of an application by a committee to retain a professional person must be filed and served, in accordance with LBR 2002-2(a) and LBR 9036-1, on the United States trustee, debtor or debtor in possession, the trustee (if appointed), and their counsel.

(C) The notice must be filed and served not later than the day the application is filed with the court.

(3) Content of Notice. The notice must:

(A) State the identity of the professional and the purpose and scope for which the professional is being employed;

(B) State whether the professional seeks compensation pursuant to

11 U.S.C. § 328 or 11 U.S.C. § 330;

(C) Describe the arrangements for compensation, including the hourly rate of each professional to render services, source of the fees, the source and amount of any retainer, the date on which it was paid, and any provision regarding replenishment thereof;

(D) Provide a name, address, and telephone number of the person who will provide a copy of the application upon request; and

(E) Advise the recipient that any response and request for hearing, in the form required by LBR 9013-1(f), must be filed and served on the applicant (and counsel, if any), and the United States trustee not later than 14 days from the date of service of the notice.

(4) No Response and Request for Hearing. If the response period expires without the filing and service of a response and request for hearing, the applicant must promptly comply with LBR 9013-1(o)(3).

(5) Response and Request for Hearing Filed. If a timely response and request for hearing is filed with the court and served upon the applicant and the United States trustee, the applicant must comply with LBR 9013-1(o)(4).

LBR 2015-2. PERIODIC REPORTING REQUIREMENTS IN CHAPTER 11 CASES OTHER THAN SMALL BUSINESS CASES AND SUBCHAPTER V CASES.

(a) Chapter 11 Cases Other than Small Business Cases and Subchapter V Cases. Debtors in possession and trustees in cases in which the debtor is not a small business debtor (as defined in 11 U.S.C. § 101(51D), or subchapter V debtor (as defined in 11 U.S.C. § 1182), must file reports in compliance with this Rule and any requirements established by the United States Trustee until the effective date of a confirmed plan or an order is entered dismissing or converting a case to another Bankruptcy Code chapter.

(1) **Mandatory Form.** Monthly operating reports (MORs) must be filed using the mandatory data-enabled form adopted by the United States Trustee, without alteration.

(A) The mandatory MOR form and instructions for its use are available at https://www.justice.gov/ust/chapter-11-operating-reports.

(B) MORs must be filed through the court's CM/ECF system.

(2) **Jointly Administered Cases**. Each debtor in jointly administered cases must file separate monthly reports on a nonconsolidated basis consistent with any requirements set forth by the United States Trustee.

(3) **Filing Deadline.** The MOR for each month must be filed by no later than the 21st day of the following month.

(4) **Service.** At the same time they are filed, MORs must be served on:

(A) the United States Trustee;

(B) any official committee appointed under 11 U.S.C. § 1102;

(C) any governmental unit responsible for collecting or determining any tax arising out of the bankruptcy estate's operation;

(D) any party in interest requesting to be served; and

(E) any other party the court orders to be served.

(b) **<u>Postconfirmation Reports</u>.** In all chapter 11 cases other than small business cases or cases proceeding under subchapter V, the reorganized debtor or any other party authorized to administer the confirmed plan must file quarterly postconfirmation reports (PCRs) using the appropriate mandatory form until a final decree is entered or the case is dismissed or converted to another Bankruptcy Code chapter.

(1) **Mandatory Form.** PCRs must be filed using the mandatory data-enabled form adopted by the United States Trustee, without alteration.

(A) The mandatory PCR form and instructions for its use are available at https://www.justice.gov/ust/chapter-11-operating-reports.

(B) PCRs must be filed through the court's CM/ECF system.

(2) **Jointly Administered Cases**. Each reorganized debtor and any other party authorized to administer the confirmed plan in jointly administered cases must file separate postconfirmation reports on a nonconsolidated basis consistent with any requirements set forth by the United States Trustee.

(3) **Filing Deadline.** The PCR for each quarter must be filed by no later than the 21st day of the month following the end of the calendar quarter covered by the report.

(4) **Service.** At the same time they are filed, PCRs must be served on:

(A) the United States Trustee;

(B) any governmental unit responsible for collecting or determining any tax arising out of the reorganized debtor's operation and administration of the confirmed plan;

(C) any party in interest requesting to be served; and

(D) any other party the court orders to be served.

(c) **Scanned signatures must be in attachments, not in the forms themselves.** Holographic signatures and their retention are governed by Local Rule 9011-1, except that scanned holographic signatures must be filed as separate attachments to the MOR and PCR forms, just like certain financial information is filed as separate attachments. Violating this rule by including scanned signature pages within the same document as MORs and PCRs will negate the data-enabled functions of those forms and may subject the filer to sanctions. The filed MORs and PCRs themselves must be signed by placing "/s/" on the signature line followed by the typed name of the signor. Counsel for the debtor must retain the holographic signatures for five years. Unrepresented debtors must deliver their holographic signatures to the Office of the United States Trustee.

(d) **Duties Upon Conversion to Chapter 7.** Upon entry of an order converting a case to one under chapter 7, the debtor in possession, chapter 11 trustee, or subchapter V trustee in possession, if any, must, in addition to complying with those duties set forth in FRBP 1019: (1) Secure, preserve and refrain from disposing of property of the estate; (2) Contact the chapter 7 trustee and arrange to deliver property of the estate and all books and records to the trustee or the trustee's designated agent; and (3) Within 7 days after entry of the conversion order, file and serve upon the United States trustee and the chapter 7 trustee, a verified schedule of all property of the estate as of the conversion date.

LBR 2015-3. PRECONFIRMATION REQUIREMENTS FOR SUBCHAPTER V DEBTORS, DEBTORS IN POSSESSION, AND TRUSTEES

(a) **Applicability**. This LBR only applies to cases proceeding under subchapter V of chapter 11 of the Bankruptcy Code.

(b) **Subchapter V Status Report.** Unless otherwise ordered by the court, not later than 14 days before the date of the first-scheduled status conference, the debtor must:

(1) Meet and confer with the Subchapter V Trustee and any creditor asserting a secured claim regarding assurances that any allowed fees and expenses of the trustee will be paid, including any initial or monthly retainer and an proposed carve out from the collateral securing the creditor's claim;

(2) File a completed Subchapter V Status Report, local form **F 2015-3.1.SUBV.STATUS.RPT**, executed by both the debtor and the debtor's counsel, if any, which must include, in the section addressing any additional information the debtor wishes to disclose to the court, any request by the trustee for any retainer or other assurances of payment, and the position of the debtor and of any secured creditor as to such retainer or other assurances; and

(3) Serve a copy of the Subchapter V Status Report on the trustee, the United States trustee, and all parties in interest.

(c) **<u>Monthly Operating Reports</u>**. The debtor must file with the court timely subchapter V monthly operating reports ("MORs") on the appropriate Official Form (Official Form B 425C) required by section 308 of the Bankruptcy Code and in accordance with the timing requirements of FRBP 2015(a)(6). If the debtor is removed as debtor in possession, the obligation to file MORs shall be the obligation of the subchapter V trustee in possession, unless the court orders otherwise. LBR 2090-1.

(d) **<u>Complete Inventory</u>.** Upon written motion pursuant to LBR 9013-1, filed by a party in interest, including the subchapter V trustee, the court may direct the debtor to file a complete physical inventory of the debtor's property as of the date (1) the petition was filed, or (2) the case was converted to chapter 11, subchapter V.

(e) **<u>Subchapter V Trustee's Estimate of Fees and Expenses</u>**. Unless otherwise ordered by the court, not later than 14 days before the deadline to file any proposed plan, the Subchapter V Trustee must:

(1) file a completed Notice of Subchapter V Trustee's Estimated Fees and Expenses for Purposes of Plan Confirmation, local form **F 2015-3.2.SUBV.TRUSTEE.FEE.EST;** and

(2) serve a copy of the Subchapter V Trustee's Estimated Fees and Expenses on the debtor, counsel for the debtor, and the United States trustee.

LBR 2016-1. <u>COMPENSATION OF PROFESSIONAL PERSONS</u>

(a) **<u>Interim Fee Applications</u>.**

(1) <u>Form of Fee Application</u>. An application for interim fees incurred or costs advanced by an attorney, accountant or other professional person, and a trustee or examiner must contain the following:

(A) A brief narrative history and report concerning the status of the case, including the following:

(i) <u>Chapter 11</u>. Applicant must describe the general operations of the debtor, stating whether the business of the debtor, if any, is being operated at a profit or loss, whether the business has sufficient operating cash flow, whether a plan has been filed, and if not, the prospects for reorganization and the anticipated date for the filing of a plan.

(ii) <u>Chapter 7</u>. Applicant must report the status of administration of the estate, discussing the actions taken to liquidate property of the estate, the property remaining to be administered, the reasons the estate is not in a position to be closed, and whether it is feasible to pay an interim dividend to creditors.

(iii) All Cases. Applicant must disclose the amount of money on hand in the estate and the estimated amount of other accrued expenses of administration. At the hearing on an application for interim fees, the applicant should be prepared to supplement the application by declaration or by testimony to inform the court of the current financial status of the debtor's estate.

(iv) Multiple Fee Applications. If more than 1 application for interim fees in a case is noticed for hearing at the same date and time, the narrative history provided in one of the applications may be incorporated by reference into the other interim fee applications to be heard contemporaneously by the court.

(v) Exception. A fee application submitted by an auctioneer, real estate broker, or appraiser does not have to comply with subsection (a)(1)(A) of this rule, except that auctioneers, unless otherwise ordered by the court, must file the report required by FRBP 6004(f) prior to receiving final compensation.

(B) The date of entry of the order approving the employment of the individual or firm for whom payment of fees or expenses is sought, and the date of the last fee application for the professional.

(C) A listing of the amount of fees and expenses previously requested, those approved by the court, and how much has been received.

(D) A brief narrative statement of the services rendered and the time expended during the period covered by the application.

(E) Unless employment has been approved on a fixed fee, percentage fee, or contingent fee basis, the application must contain a detailed listing of all time spent by the professional on matters for which compensation is sought, including the following:

(i) Date Service was Rendered;

(ii) Description of Service. It is not sufficient to merely state "Research," "Telephone Call," "Court Appearance," *etc.* Applicant must refer to the particular person, motion, discrete task performed, and other matters related to such service. A summary that lists a number of services under only 1 time period is not satisfactory;

(iii) Amount of Time Spent. A summary is not adequate. Time spent must be accounted for in tenths of an hour and broken down in detail by the specific task performed. Lumping of services is not satisfactory; and

(iv) Identification of Person who Rendered Service. If more than 1 person's services are included in the application, applicant must

identify the person who performed each item of service.

(F) An application that seeks reimbursement of actual and necessary expenses must include a summary listing of all expenses by category (*i.e.*, long distance telephone, photocopy costs, facsimile charges, travel, messenger and computer research). As to each unusual or costly expense item, the application must state:

(i) The date the expense was incurred;

(ii) A description of the expense;

(iii) The amount of the expense; and

(iv) An explanation of the expense.

(G) Unless employment has been approved on a fixed fee, percentage fee, or contingent fee basis, the application must contain a listing of the hourly rates charged by each person whose services form a basis for the fees requested in the application. The application must contain a summary indicating for each attorney by name:

(i) The hourly rate and the periods each rate was in effect;

(ii) The total hours in the application for which compensation is sought; and

(iii) The total fee requested in the application.

(H) A description of the professional education and experience of each of the individuals rendering services, including identification of the professional school attended, year of graduation, year admitted to practice, publications or other achievements, and explanation of any specialized background or expertise in bankruptcy-related matters.

(I) If the hourly rate changed during the period covered by the application, the application must specify the rate that applies to the particular hours for which compensation is sought.

(J) A separately filed declaration from the client indicating that the client has reviewed the fee application and has no objection to it. If the client refuses to provide such a declaration, the professional must file a declaration describing the steps that were taken to obtain the client's declaration and the client's response thereto.

(K) A statement that the applicant has reviewed the requirements of this rule and that the application complies with this rule.

(2) Notice of Interim Fee Application and Hearing.

(A) In all cases where the employment of more than one professional person has been authorized by the court, a professional person who files an application for interim fees must give other professional persons employed in the case not less than 45 days notice of the date and time of the hearing. The notice of hearing must further state:

> "Other professional persons retained pursuant to court approval may also seek approval of interim fees at this hearing, provided that they file and serve their applications in a timely manner. Unless otherwise ordered by the court, hearings on interim fee applications will not be scheduled less than 120 days apart."

(B) Applicant must serve not less than 21 days notice of the hearing on the debtor or debtor in possession, the trustee (if any), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002. The notice must identify the professional person requesting fees, the period covered by the interim application, the specific amounts requested for fees and reimbursement of expenses, the date, time and place of the hearing, and the deadline for filing and serving a written opposition.

(C) In addition to the notice, a copy of the application, together with all supporting documents, must be served on the debtor or debtor in possession, the trustee (if any), any committee appointed in the case, counsel for any of the foregoing, and the United States trustee. A copy of the complete application must also be promptly furnished upon specific request to any other party in interest.

(3) Objections. Any opposition or other responsive document by the United States trustee or other party in interest must be served and filed at least 14 days prior to the hearing in the form required by LBR 9013-1(f).

(b) Motions to Approve Compensation Procedures in Chapter 11 Cases, Including Monthly Draw-down and Contingency or Success Fee Agreements. A professional person employed in a chapter 11 case may request approval for and modifications of draw-down procedures and an order allowing payment of interim compensation more frequently than once every 120 days.

(c) Final Fee Application.

(1) Who Must File. The trustee, if any, and each professional person employed in the case must file a final fee application.

(2) Contents. An application for allowance and payment of final fees and expenses

must contain the information required of an interim fee application under LBR 2016-1(a)(1).

(3) When Filed; Notice Required in Chapter 11 Cases.

(A) Unless otherwise ordered by the court, a final fee application by the trustee, if any, and each professional person employed in a chapter 11 case must be filed and set for hearing as promptly as possible after confirmation of a plan.

(B) A final fee application must cover all of the services performed in the case, not just the last period for which fees are sought, and must seek approval of all prior interim fee awards.

(C) Applicant must serve not less than 21 days notice of the hearing on the debtor or debtor in possession, the trustee (if any), any committee appointed in the case, counsel for any of the foregoing, the United States trustee, and any other party in interest entitled to notice under FRBP 2002. The notice must identify the person or entity requesting a final allowance of fees and expenses, the period covered by the final application, the specific amounts requested for fees and reimbursement of expenses, the date, time and place of the hearing, and the deadline for filing and serving a written opposition.

(D) In addition to the notice, a copy of the application, together with all supporting documents, must be served on the debtor or debtor in possession, the trustee (if any), any committee appointed in the case, counsel for any of the foregoing, and the United States trustee. A copy of the complete application must also be promptly furnished upon specific request to any other party in interest.

(4) When Filed; Notice Required in Chapter 7 Cases.

(A) A chapter 7 trustee must give at least 30 days written notice of intent to file a final report and account to the attorney for the debtor, the trustee's attorney and accountant, if any, and any other entity entitled to claim payment payable as an administrative expense of the estate.

(B) A professional person seeking compensation must file and serve an application for allowance and payment of final fees and expenses on the trustee within 21 days of the date of the mailing of the trustee's notice. The failure to timely to file an application may be deemed a waiver of compensation.

(C) All final fee applications by professional persons must be set for hearing with the chapter 7 trustee's final application for allowance and payment of fees and expenses. Notice of a final fee application must be given by the chapter 7 trustee as part of the notice of the hearing on the trustee's request for compensation. A separate notice by the applicant is not required.

(5) Objections. Any opposition or other responsive document by the United States trustee or other party in interest must be served and filed at least 14 days prior to the hearing in the form required by LBR 9013-1(f).

(d) **Fee Examiner.** The court may, either on its own motion or on the motion of a party in interest, with or without a hearing, exercise its discretion to appoint a fee examiner to review fee applications and make recommendations to the court for approval.

(e) **Subchapter V Trustee Compensation**. At any status conference the court may rule on any request of the Subchapter V Trustee to order a retainer or any other proposed assurance that the trustee will be paid any allowed fees and expenses. The trustee is not required to make that request in any separate document if it is included in the debtor's status report; but the trustee may file a separate application for an order establishing a retainer or other assurances of payment, which must be served on the debtor, any creditors asserting a secured claim, the United States Trustee, and any other persons the court may require. In ordering any retainer or other assurances of payment, the court may consider (i) the risk that the case will be converted or dismissed, (ii) whether the estate has unencumbered assets from which to pay the trustee, (iii) the amount of work that the trustee must or should undertake, and (iv) any other relevant facts and circumstances. Any retainer remains the property of the bankruptcy estate and must be held by the trustee and not be disbursed unless otherwise ordered by the court. Nothing in this paragraph should be interpreted to excuse the debtor from the need to file a motion to approve the use of any cash collateral.

LBR 2016-2. COMPENSATION AND TRUSTEE REIMBURSEMENT PROCEDURES IN CHAPTER 7 ASSET CASES

(a) **No Order Required: Payment of Expenses, Up to $1,000, that are Inherent in the Appointment of a Chapter 7 Trustee .** During the course of a chapter 7 case, a trustee may disburse up to $1,000 from estate funds to pay the following actual and necessary expenses of the estate without further authorization from the court (the "Authorized Allocation"):

(1) Actual cost of noticing, postage, copying;
(2) Computer charges;
(3) Long distance telephone;
(4) Postage;
(5) Moving or storage of estate assets;
(6) Teletransmission;
(7) Travel charges for trustee (includes lodging, meals, mileage and parking);
(8) Bank charges for research or copies;
(9) Court reporting fees;
(10) Delivery of documents;
(11) Expedited mail;
(12) Filing and process serving;
(13) Notary fees;
(14) Recording fees;
(15) Deposition/transcript fees;

(16) Witness fees;
(17) Locate and move assets;
(18) Prepare litigation support documents;
(19) Locksmith;
(20) Security services; and
(21) Utilities.

(b) **<u>Order Required: Payment of Expenses, Up to $5,000, After Limited Notice and Opportunity to Request a Hearing</u>.** If a trustee determines that it is necessary or appropriate to pay actual and necessary administrative expenses of the estate using estate funds, and such expenses do not exceed $5,000, the trustee must file a notice of the trustee's intent to pay such obligations using form F 2016-2.3.NOTICE.TRUSTEE.DISBURSE. After the waiting period set forth below, if there is no opposition or request for a hearing, the trustee must lodge a proposed order authorizing such payment pursuant to LBR 9013-1(o)(3). The trustee is not required to serve the notice on any party or the court, other than the debtor and counsel for the debtor.

Any party that objects to the payment of the administrative expenses as set forth in the trustee's notice must file a response and request for hearing within 14 days after the date of filing of the notice, and serve the response on the trustee and the trustee's counsel, if any. Upon receipt of a response and request for hearing, the trustee must follow the procedures set forth in LBR 9013-1(o)(4) to set the matter for hearing.

Pursuant to the procedure set forth above, a trustee may disburse up to $5,000 from estate funds to pay the following actual and necessary administrative expenses of the estate (the "Administrative Allocation"):

(1) Costs to advertise sale;
(2) Insurance;
(3) Rent;
(4) Obligations to taxing agencies arising under 11 U.S.C. § 507(a)(2), provided the estate is and is likely to remain administratively solvent; and
(5) Obligations to taxing agencies arising under 11 U.S.C. § 503(b)(1)(B), but not preconversion tax obligations.

(c) **<u>No Order Required: Bond Premiums</u>.** In addition to payments that may be made from the Authorized Allocation and/or the Administrative Allocation, the trustee may pay bond premiums required by 11 U.S.C. § 322(a) during the ordinary course of the trustee's administration of an estate.

(d) **<u>Expenses for Preparation of Tax Returns</u>.** The trustee may, by a single application, seek authorization to employ and pay a tax preparer a flat fee (not to exceed $1,000 unless the court orders otherwise) for preparation of tax returns for the estate. If the court grants such application, the trustee may pay the flat fee so ordered without further application or order. This amount is in addition to payments that may be made from the Authorized Allocation and/or the Administrative Allocation.

(e) **Emergency Expenses.** The trustee may exceed the Authorized Allocation and/or the Administrative Allocation to pay emergency expenses, without prior court approval, to protect assets of the estate that might otherwise be lost or destroyed. Emergency expenses are limited to:

(1) Charges for storage of the debtor's records to prevent the destruction of those records and related necessary cartage costs;
(2) Insurance premiums to prevent liability to the estate;
(3) Locksmith charges to secure the debtor's real property or business; and
(4) Security services to safeguard the debtor's real or personal property.

If the trustee disburses more than the Authorized Allocation and/or the Administrative Allocation to pay emergency expenses and other expenses for which the Authorized Allocation and/or the Administrative Allocation may be used, the trustee must file and serve a cash disbursements motion, as described in subsection (g) of this rule, within 7 days after such expenses are paid.

(f) **Procedures for Employment of Paraprofessionals and Payment of Paraprofessional Fees and Expenses.** A trustee must obtain court approval to employ and to pay a paraprofessional.

(1) Definition. The term "paraprofessional" includes all persons or entities other than "professionals" who perform services at the trustee's request and seek payment for services and expenses directly from the bankruptcy estate, including an agent, a field representative, an adjuster, and a tax preparer.

(2) Employment. A trustee may seek court approval to employ a paraprofessional by filing an employment application using court-approved form F 2016-2.1.APP.TRUSTEE.EMPLOY. The court's approval of the employment of any paraprofessional is not a judicial determination as to whether services of the paraprofessional constitute "trustee services." The following is a nonexclusive list of services that the court deems "trustee services" subject to the limitation on compensation contained in 11 U.S.C. § 326(a):

(A) Review schedules;
(B) Acceptance and qualification as a trustee;
(C) Routine investigation regarding location and status of assets;
(D) Initial contact with lessors, secured creditors, assignee for benefit creditors, *etc*., if same can be accomplished from office;
(E) Turnover or inspection of documents, such as bank documents;
(F) UCC search review;
(G) Recruit and contract appraisers, brokers, and professionals;
(H) Mail forwarding notices;
(I) Routine collection of accounts receivable;
(J) Letters regarding compliance with LBR 2016-1;
(K) Conduct 11 U.S.C. § 341(a) examinations;
(L) Routine objections to exemption;
(M) Routine motions to dismiss;

(N) 11 U.S.C. § 707(b) referral to United States trustee;
(O) Routine documentation of notices of sale, abandonment, compromise, *etc*.;
(P) Appear at hearings on routine motions;
(Q) Review and execute certificates of sale, deed, or other transfer documents;
(R) Prepare and file notifications of asset case;
(S) Prepare and file cash disbursements motions and necessary attachments;
(T) Prepare exhibits to operating reports;
(U) Prepare quarterly bond reports;
(V) Prepare trustee's interim reports;
(W) Routine claims review and objection;
(X) Prepare and file final reports and accounts and related orders;
(Y) Prepare motions to abandon or destroy books and records;
(Z) Prepare and file FRBP 3011 reports;
(AA) Prepare and file notices and motions to abandon assets and related orders;
(BB) Attend sales;
(CC) Monitor litigation;
(DD) Answer routine creditor correspondence and phone calls;
(EE) Prepare and file applications to employ paraprofessionals;
(FF) Review and comment on professional fee applications;
(GG) Participate in audits;
(HH) Answer United States trustee questions;
(II) Close and open bank accounts;
(JJ) Verify proposed disbursements;
(KK) Post receipts and disbursements;
(LL) Prepare details and calculations for payment of dividend;
(MM) Prepare dividend checks;
(NN) Organize and research bills;
(OO) Prepare checks for the trustee's signature;
(PP) Prepare internal cash summary sheets;
(QQ) Reconcile bank accounts;
(RR) Prepare and make deposits; and
(SS) Additional routine work necessary for administration of the estate.

(3) Reimbursement of Fees and Expenses. A trustee may pay a paraprofessional only upon specific order of the court.

(A) If the paraprofessional or trustee contends that the paraprofessional's services are not "trustee services," the trustee or paraprofessional must present evidence to support that contention. Absent adequate proof, the court may find that the services of the paraprofessional are "trustee services" subject to the limitation on compensation under 11 U.S.C. § 326(a).

(B) If a trustee refuses or neglects to file a fee application for the paraprofessional, the paraprofessional may file a separate fee application pursuant to 11 U.S.C. § 330. In addition to fulfilling the requirements of 11 U.S.C. § 330, FRBP 2014 and these rules, the paraprofessional's fee application must include: (i) a declaration explaining why a separate fee application is necessary; and (ii) evidence establishing which services are

"trustee services" and which are not. The paraprofessional must serve any separate fee application on the trustee, debtor, debtor's counsel (if any), the United States trustee, and all professionals and other paraprofessionals employed in the case, and must give notice of the application to all creditors.

(g) <u>Cash Disbursements Motion</u>.

(1) <u>Filing and Service</u>. If the trustee wishes to pay expenses not authorized by this rule from estate funds, the trustee must file a cash disbursements motion to obtain court approval of payments for emergency expenses and all other expenses the trustee deems necessary for effective administration of the case. The cash disbursements motion must be in substantially the same form as court-approved form F 2016-2.2.MOTION.TRUSTEE.DISBURSE and may be brought under LBR 9013-1(o). The trustee must serve the motion on the debtor, debtor's counsel (if any), the United States trustee, holders of the 20 largest unsecured claims, and any other party in interest entitled to notice under FRBP 2002. If a timely objection is filed, the trustee must comply with LBR 9013-1(o)(4).

(2) <u>Hearing</u>. The court may set a hearing on a cash disbursements motion regardless of whether an objection is filed. However, if the court does not advise the trustee of a hearing on the motion within 7 days after the motion is filed, the trustee may disburse funds from the estate to pay the expenses referred to in the motion to the extent the trustee deems it necessary, pending an order of the court. If, thereafter, the trustee receives notice that the court has issued an order in which the cash disbursements motion has been disapproved in whole or in part, or that the court has set a hearing, the trustee must stop paying the expenses for which authorization was sought in the motion or otherwise comply with the provisions of the order. The trustee may file a motion for reconsideration pursuant to LBR 9013-4.

(3) <u>Personal Liability and Disclosure</u>. Except as provided in this rule, a trustee who makes a disbursement without prior court approval may be personally liable to the estate for the amount of the disbursement. All disbursements made by the trustee pursuant to this rule must be disclosed in the trustee's final report and in all applications for fees or costs by the trustee and by paraprofessionals employed in the case by the trustee.

(h) <u>Nonexclusive Remedy</u>. Nothing in this rule precludes the trustee from seeking court approval to disburse estate funds by way of a noticed motion filed and served pursuant to LBR 9013-1(d).

LBR 2070-1. <u>CHAPTER 7 OPERATING CASES</u>

(a) <u>Periods Not Exceeding 30 Days</u>. For a period not exceeding 30 days from the date of the trustee's appointment, a trustee may operate the business of a chapter 7 debtor and pay any actual and necessary expenses from the Authorized Allocation permitted under LBR 2016-2(a) without a court order.

(b) **<u>Periods Exceeding 30 Days</u>**. To operate the business beyond such 30-day period, the trustee must, prior to expiration of the 30-day period, file and serve a motion for authorization to operate the debtor's business under 11 U.S.C. § 721. The motion must state the approximate length of time the trustee intends to operate the business and be supported by evidence that justifies operation of the business and satisfies the requirements of 11 U.S.C. § 721.

(c) **<u>Authorization Not to Exceed 1 Year.</u>** The trustee may seek approval to operate the debtor's business for a period not exceeding 1 year.

(d) **<u>Disbursement of Estate Funds Pending Authorization</u>.** The court may hold a hearing on the trustee's motion after the expiration of the 30-day period, but the trustee may not disburse estate funds other than the Authorized Allocation after the 30-day period except upon specific order of the court.

(e) **<u>Effect of Order</u> .** An order authorizing the trustee to operate the debtor's business does not excuse the trustee from obtaining appropriate authorization for cash disbursements under LBR 2016-2(f), except to the extent that the operating order expressly approves specific expenditures from the estate.

LBR 2072-1. <u>NOTICE TO OTHER COURTS</u>

(a) **<u>Notice of Bankruptcy Petition</u>.** Notice of the filing of a bankruptcy petition in this district must be given by the debtor or debtor's counsel, at the earliest possible date, to:

(1) The clerk of any federal or state court in which the debtor is a party to pending litigation or other proceedings; and

(2) The federal or state judge to whom the matter is assigned, all counsel of record in the matter, and to all parties to the action not represented by counsel.

(b) **<u>Effect of Not Giving Notice</u>.** The failure to give the notice required by subsection (a) of this rule may constitute cause for annulment of the stay imposed by 11 U.S.C. §§ 362, 922, 1201, or 1301, or may result in the imposition of sanctions or other relief.

LBR 2081-1. <u>CHAPTER 11 CASES</u>

(a) **<u>Motions Requiring Emergency or Expedited Relief</u>.** Subject to FRBP 6003, the movant may request the following motions be set for hearing using the procedures set forth in LBR 9075-1:

(1) <u>Motion to Limit Notice</u>;

(2) <u>Motion to Extend Time to File Schedules and Statement of Financial Affairs</u>;

(3) <u>Utility Motion Pursuant to 11 U.S.C. § 366</u>;

(4) Motion to Establish Procedures for Handling Multiple Reclamation Claims;

(5) Request for Regularly Scheduled Hearing Dates. Upon request of a debtor, the court may establish a fixed date and time for hearing all motions and other matters in a chapter 11 case. Once ordered, the dates and time, and exceptions, if any, will be made available through the clerk's office and posted in advance on the court's website;

(6) Motion to Pay Prepetition Payroll and to Honor Prepetition Employment Procedures. The motion must be supported by evidence that establishes:

(A) The employees are still employed;

(B) The necessity for payment;

(C) The benefit of the procedures;

(D) The prospect of reorganization;

(E) Whether the employees are insiders;

(F) Whether the employees' claims are within the limits established by 11 U.S.C. § 507; and

(G) The payment will not render the estate administratively insolvent;

(7) Motion to Honor and Comply with Customer Obligations and Deposits. The motion must be supported by evidence that relief is essential to business operations and customer confidence or that the estate may suffer postpetition damages that would prejudice creditors, the reorganization, or the value of property of the estate;

(8) Motion to Pay Prepetition Taxes. The motion must be supported by evidence that establishes:

(A) The necessity for payment;

(B) The prospect of reorganization;

(C) The means to pay;

(D) That the taxes to be paid are entitled to priority pursuant to 11 U.S.C. § 507; and

(E) The payment will not render the estate administratively insolvent;

(9) Motion for Emergency Use of Cash Collateral, Debtor in Possession Financing, or

Cash Management;

(10) Motion for Order Establishing Procedures for Sale of Estate's Assets;

(11) Appointment of a Patient Care Ombudsman Under 11 U.S.C. § 333; and

(12) Other Motions Where Special Circumstances Exist. The motion must be supported by evidence that exigent circumstances exist justifying an expedited hearing.

(b) Prepackaged Plans. A hearing on a motion for order confirming a chapter 11 plan upon which voting was conducted before commencement of the case pursuant to 11 U.S.C. §1126(b) must be scheduled, if practicable, no more than 30 days after the order for relief.

(c) Severance Compensation or Employee Incentive Motions.

(1) Notice. A motion for approval of a severance compensation package or employee incentive program must be heard on regular notice pursuant to LBR 9013-1(d), absent exigent circumstances.

(2) Standard. The motion must state whether the employee is an insider. If so, the motion must state whether the insider has a bona fide job offer from another business at the same or greater rate of compensation and establish the elements of 11 U.S.C. § 503(c).

LBR 2081-2. CHAPTER 11 DEBTORS WHO ARE INDIVIDUALS

A chapter 11 debtor who is an individual may request that the court authorize use of LBR forms approved by the court for use solely by debtors who are individuals, and the debtor can consult the court's website to determine which judges mandate or otherwise authorize use of such forms.

LBR 2090-1. ATTORNEYS – ADMISSION TO PRACTICE

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

(1) Attorney. An attorney admitted to practice before the district court may practice before the bankruptcy court. An attorney who is not admitted to the bar of, or permitted to practice before, the district court may not appear before the court on behalf of a person or entity, except as provided by this rule. Attorneys appearing before the court must have read the FRBP, F.R.Civ.P., F.R.Evid., and these rules in their entirety.

(2) Scope of Appearance in Chapter 9, 11, 12, and 13 Cases.
In chapter 9, 11, 12, and 13 cases, the attorney for the debtor is presumed to appear for the case and all proceedings in the case, unless otherwise ordered by the court or as provided for in LBR 3015-1(v).

(3) Scope of Appearance in Individual Chapter 7 Cases. Nothing in these rules shall be construed as prohibiting a limited scope of appearance in a chapter 7 case so long as the applicable Rules of Professional Conduct and ethics rules are followed and the attorney for the debtor, in addition to preparing the petition and schedules, provides the following services:

(A) advises the debtor about the possibility of any additional proceedings related to or arising from the underlying bankruptcy case, including any adversary proceeding, motion or other contested matter initiated by a creditor, trustee or party in interest; and

(B) appears with the debtor at the initial § 341(a) meeting of creditors or arranges for an attorney knowledgeable about all pertinent information in the case to appear with the debtor at such meeting.

(4) Disclosure of Compensation. Where the attorney and the debtor agree to legal services for less than all aspects of the bankruptcy case, the scope of the services agreed to must be listed in, as applicable, LBR form F 2090-1.CH7.ATTY.COMP.DISCLSR and F 2016-1.4.ATTY.COMP.DISCLSR.

(5) Communications with the Debtor in Limited Scope Chapter 7 Cases. Subject to the prohibition on any act to collect a claim and other stayed acts under 11 U.S.C. § 362(a), any communication, including any proposed reaffirmation agreement, must be sent to both the debtor and the debtor's attorney, even if it appears that the communication is beyond the scope of the attorney's limited appearance in the case.

(b) Pro Hac Vice Appearance.

(1) Permission for Pro Hac Vice Appearance by Non-Resident Attorney. Any person who is not otherwise eligible for admission to practice before the court, but who is a member in good standing of, and eligible to practice before, the bar of any United States court, or of the highest court of any state, territory, or insular possession of the United States, who is of good moral character, and who has been retained to appear before the court, may, upon written application and at the discretion of the court, be permitted to appear and participate pro hac vice by non-resident attorney in a particular case or in a particular proceeding in a case. Only one application and fee are required per case, even if the party to be represented is involved in both a case and a proceeding, in multiple proceedings within that case, or in cases that are jointly administered or substantively consolidated.

(2) Disqualification from Pro Hac Vice Appearance. Unless authorized by the Constitution of the United States or Act of Congress, a non-resident attorney is not eligible for permission to appear pro hac vice if the applicant:

(A) Resides in California; or

(B) Is regularly employed in California; or

(C) Is regularly engaged in business, professional, or other similar activities in California.

(3) Designation of Local Counsel. A non-resident attorney applying to appear pro hac vice must designate an attorney who is a member of the bar of the court and who maintains an office within this district as local counsel with whom the court and opposing counsel may readily communicate regarding the conduct of the case and upon whom documents may be served, unless otherwise ordered by the court.

(4) Designation of Co-counsel. A judge to whom a case is assigned may, in the exercise of discretion, require the designation of an attorney who is a member of the bar of the court and who maintains an office within this district as co-counsel with authority to act as attorney of record for all purposes.

(5) Obtaining Permission for Pro Hac Vice Appearance. A non-resident attorney seeking permission to appear pro hac vice must present to the clerk:

(A) Proof of payment of the fee required by the district court; and

(B) A written application on or conforming to court-approved form F 2090-1.2.APP.NONRES.ATTY, Application for Non-Resident Attorney to Appear in a Specific Case, disclosing the following:

(i) The applicant's name, and office or residence address;

(ii) The courts to which the applicant has been admitted to practice and the respective dates of admission;

(iii) A statement by the applicant of the good standing to practice before the courts to which the applicant has been admitted;

(iv) Whether the applicant has been disciplined by any court or administrative body, and if disciplinary proceedings are pending, the details of such proceedings, and whether the applicant resigned while disciplinary proceedings were pending;

(v) Whether in the 3 years preceding the application, the applicant has filed for permission to practice pro hac vice before any court within the state of California, together with the court, title and number of each such proceeding, and the disposition of each such application;

(vi) A certificate that the applicant has read the FRBP, the F.R.Civ.P., the F.R.Evid., and these rules in their entirety; and

(vii) The designation required by LBR 2090-1(b)(3) or LBR 2090-1(b)(4) including the office address, telephone number, and written consent of

the designee.

(6) No Notice and Hearing. An application by a non-resident attorney for permission to appear pro hac vice does not require notice or a hearing, pursuant to LBR 9013-1(q).

(c) Attorneys for the United States. Any person who is not eligible for admission under LBR 2090-1(b), or Local Civil Rules, who is employed within California and who is a member in good standing of and eligible to practice before the bar of any United States court, or of the highest court of any state, territory or insular possession of the United States, and who is of good moral character, may be granted leave of court to practice in the court in any matter for which such person is employed or retained by the United States or its agencies.

(d) Professional Corporations, Unincorporated Law Firms, and In-house Attorneys.

(1) Appearance. A professional law corporation or unincorporated law firm (collectively, "law firm") may not make an appearance on behalf of a party nor may pleadings or other documents be signed in the name of the law firm except by an attorney admitted to the bar of or permitted to practice before the court. This rule does not apply to appearances by the attorney on behalf of the attorney or on behalf of the attorney's law firm.

(2) Form of Appearance.

(A) A law firm must appear in the following form of designation or its equivalent:

John Smith (state bar number)
Smith and Jones
Address
Telephone Number
Fax Number (if any)
Email Address (if any)
Attorneys for ______________________

(B) An in-house attorney must appear in the following form of designation or its equivalent:

John Smith (state bar number)
Name of corporation or business entity
Address
Telephone Number
Fax Number (if any)
Email Address (if any)
Attorneys for ______________________

(C) Except as provided in LBR 1002-1(b) and LBR 2002-1(a), the disclosure of

an email address by an attorney in the form of designation is optional.

(e) **<u>Law Student Certification for Practice in Bankruptcy Court</u>.** A law student may be certified for practice in the bankruptcy court if the student meets the requirements of Local Civil Rule 83-4 for appearances in civil cases, except that the student need only complete one-third (rather than one-half) of the legal studies required for graduation. The law student also must have:

(1) Taken or be taking concurrently a course in bankruptcy law; and

(2) Knowledge of and familiarity with the F.R.Civ.P., FRBP, F.R.Evid., the Rules of Professional Conduct of the State Bar of California, and these rules.

LBR 2090-2. ATTORNEYS – DISCIPLINE AND DISBARMENT

(a) **<u>Standards of Conduct</u>.** An attorney who appears for any purpose in this court is subject to the standards of professional conduct set forth in Local Civil Rule 83-3.

(b) **<u>Disciplinary Authority of Court.</u>** An attorney appearing in this court submits to the discipline of the court. If a judge has cause to believe that an attorney has engaged in unprofessional conduct, the judge may do one or more of the following:

(1) Initiate proceedings for civil or criminal contempt;

(2) Impose other appropriate sanctions;

(3) Refer the matter to the appropriate disciplinary authority of the state or jurisdiction in which the attorney is licensed to practice; or

(4) Refer the matter pursuant to the procedures set forth in Local Civil Rule 83-3 or General Order 96-05, Attorney Discipline Procedures in Bankruptcy Court.

LBR 2091-1. ATTORNEYS – WITHDRAWAL, SUBSTITUTION, AND CHANGE OF ADDRESS

(a) **<u>Motion for Withdrawal or Substitution</u>.** Except as provided in LBR 2091-1(b), a motion filed under LBR 9013-1(p) is required for:

(1) <u>Withdrawal without Substitution</u>. An attorney who has appeared on behalf of an entity or individual in any matter concerning the administration of the case, in one or more proceedings to withdraw as counsel;

(2) <u>Substitution of Self-Represented Individual</u>. An individual who is currently represented by an attorney in any matter concerning the administration of the case, in one or more proceedings, who now desires to represent himself/herself without an attorney. The attorney and individual may include, as an exhibit to the motion, the court-approved form for substitution of attorney.

(b) **Consensual Substitution of Counsel**.

(1) A consensual substitution of attorneys may be filed and served to substitute counsel without filing a motion where:

(A) Replacing an Attorney with a Different Attorney. An entity or individual on whose behalf an attorney has appeared in any matter concerning the administration of the case, in one or more proceedings, or both, desires to substitute a different attorney in place of the former attorney; or

(B) Unrepresented/Self-Represented Party Adding an Attorney. A previously unrepresented entity or self-represented individual desires to substitute an attorney employed to represent the entity or individual.

(2) A substitution of attorney must be filed in substantially the same form as court-approved form F 2091-1.1.SUBSTITUTION.ATTY, Substitution of Attorney, and served on those persons entitled to notice under LBR 2091-1(c).

(3) An attorney's employment as a "professional person" under 11 U.S.C. §§ 327 or 1103 is not approved merely by the filing of a Substitution of Attorney and service of notice thereof. Approval of employment must be obtained in compliance with the requirements of the Bankruptcy Code, FRBP, and these rules.

(c) **Notice.**

(1) Case. An attorney seeking withdrawal or substitution who has appeared on behalf of an entity in any matter concerning the administration of the case must give notice of the proposed substitution or motion for leave to withdraw to the debtor, the United States trustee, any case trustee, any committee appointed in the case, and counsel for any of the foregoing.

(2) Proceedings. An attorney seeking withdrawal or substitution who has appeared on behalf of an entity only in one or more proceedings must give notice of the proposed substitution or motion for leave to withdraw to the debtor, each party who has been named or who has appeared in such proceeding(s), and the United States trustee.

(3) Cases and Proceedings. An attorney seeking withdrawal or substitution who has appeared on behalf of an entity both in the case and one or more proceedings must give notice of the proposed substitution or motion for leave to withdraw to all entities entitled to notice under subsections (c)(1) and (2) of this rule.

(d) **Corporation, Partnership, Unincorporated Association, or Trust.** An attorney moving for leave to withdraw from representation of a corporation, a partnership including a limited liability partnership, a limited liability company, or any other unincorporated association, or a trust, concurrently or prior to filing any such motion,

must give notice to the client of the consequences of its inability to appear without counsel, including the possibility that a default judgment may be entered against it in pending proceedings; or, if the client is a chapter 11 debtor, that the case may be converted to chapter 7, a trustee may be appointed, or the case may be dismissed.

(e) Delay by Withdrawal or Substitution.

(1) A withdrawal or substitution of counsel will not result in a continuance of any matter, absent an order granting a motion for continuance after notice and a hearing pursuant to LBR 9013-1(m).

(2) Unless good cause is shown and the ends of justice require, no substitution or withdrawal will be allowed that will cause unreasonable delay in prosecution of the case or proceeding to completion.

(f) Change of Address.

(1) An attorney who changes office address must file and serve a notice of change of address to update the attorney's address in the court's electronic database.

(2) In the absence of a specific request to the contrary, a change of address will update the attorney's address in the court's electronic database and the mailing list in all open cases in which the attorney represents a debtor or other party in interest.

LBR 3003-1. BAR DATE IN CHAPTER 11 CASES

(a) Claims Bar Date.

(1) **General.** In chapter 11 cases, except for subchapter V cases, the claims bar date will be set by the Court either on its own motion or upon a motion filed pursuant to LBR 9013-1(q).

(2) **Subchapter V Cases.** In subchapter V cases, unless otherwise ordered, the claims bar date will be 70 days after, and for claims by governmental units 180 days after, the latest of: (1) the date of entry of the order for relief, (2) the date of conversion of the case to chapter 11, subchapter V, or (3) the date of the amendment of the petition to designate the case as a subchapter V case. In the case of conversion or re-designation of a case to subchapter V, any previously-set bar date will govern, unless otherwise ordered.

(b) Timing of Bar Date Notice.

(1) **General.** Unless otherwise ordered, in chapter 11 cases, except for subchapter V cases, the debtor in possession or chapter 11 trustee, as applicable, must file and serve the bar date notice on all parties entitled to notice within 7 days of the entry of the order setting the bar date.

(2) **Subchapter V Cases.** Unless otherwise ordered, in subchapter V cases, the debtor in possession or subchapter V trustee in possession, as applicable, must file and serve the bar date notice within 7 days of (1) the date of entry of the order for relief, (2) the date of conversion of the case to chapter 11, subchapter V, or (3) the date of the amendment of the petition to designate the case as a subchapter V case.

(c) Mandatory Form Notice of Bar Date. Any entity providing notice of the claims bar date must use the mandatory Court-approved form F 3003-1.NOTICE.BARDATE.

LBR 3007-1. OBJECTIONS TO CLAIMS

(a) Objections.

(1) An objection to claim is a "contested matter" under FRBP 9014. Except to the extent otherwise provided in this rule, an objection to claim must comply with LBR 9013-1 unless the objection is to become an adversary proceeding pursuant to FRBP 3007(b).

(2) A claim objection must include the number, if any, assigned to the disputed claim on the court's claims register.

(3) A separate objection must be filed to each proof of claim unless:

(A) The objection pertains to multiple claims filed by the same creditor;

(B) The objection is an omnibus claim objection; or

(C) The court orders otherwise.

(4) An omnibus claim objection asserts the same type of objection to claims filed by different creditors (e.g., claims improperly filed as priority claims, duplicate claims, claims filed after the bar date, etc., as described in FRBP 3007(d)). In addition to the requirements set forth in FRBP 3007(e), an omnibus claim objection must:

(A) Identify the name of each claimant and the claim number in the caption of the objection; and

(B) Include as exhibits the documents supporting each claim objection organized and indexed by claim number.

(5) If more than 20 objections in a case are noticed for hearing on a single calendar, the objector must comply with the supplemental procedures contained in The Central Guide.

(b) Notice and Hearing.

(1) A claim objection must be set for hearing on notice of not less than 30 days.

(2) The claim objection must be served on the claimant at the address disclosed by the claimant in its proof of claim and at such other addresses and upon such parties as may be required by FRBP 7004 and other applicable rules.

(3) Notice of the objection on or conforming to court-mandated form F 3007-1.1.NOTICE.OBJ.CLAIM, Notice of Objection to Claim, must be served with the claim objection. The notice must advise the claimant of the date, time, and place of hearing, and state:

(A) A response must be filed and served not later than 14 days prior to the date of hearing set forth in the notice; and

(B) If a response is not timely filed and served, the court may grant the relief requested in the objection without further notice or hearing.

(4) The court will conduct a hearing on a claim objection to which there is a timely response.

(5) If the claimant timely files and serves a response, the court, in its discretion, may treat the initial hearing as a status conference if it determines that the claim objection involves disputed fact issues or will require substantial time for presentation of evidence or argument.

(6) If the claimant does not timely file and serve a response, the court may sustain the objection without a hearing.

(A) The objector must file a declaration attesting that no response was timely filed and served upon the objector. The declaration must identify the docket number and filing date of the objection to claim, notice, and proof of service of the notice and objection to claim, and be served on the claimant.

(B) The objector must also lodge a proposed order prepared and served in accordance with LBR 9021-1 and The Central Guide.

(C) The objecting party must serve the entered order on the claimant and counsel, if any.

(c) Evidence Required.

(1) An objection to claim must be supported by admissible evidence sufficient to overcome the evidentiary effect of a properly documented proof of claim executed and filed in accordance with FRBP 3001. The evidence must demonstrate that the proof of claim should be disallowed, reduced, subordinated, re-classified, or otherwise modified.

(2) A copy of the complete proof of claim, including attachments or exhibits, must be attached to the objection to claim, together with the objector's declaration stating that the copy of the claim attached is a true and complete copy of the proof of claim on file with the court, or, if applicable, of the informal claim to which objection is made.

(3) If the complete proof of claim is not readily available from the court file, the objector may formally request a copy from the holder of the claim by serving the creditor with a notice in substantially the same form as court-approved form F 3007-1.2.NOTICE.REQ.CLAIM, Notice of Trustee's/Debtor's Request for a Copy of Proof of Claim.

(A) The request must advise the holder of the claim that failure to supply a complete copy of the proof of claim, including all attached documentation, within 30 days of the notice may constitute grounds for objection to the claim based on the claimant's failure to provide requested documentation to support the claim.

(B) If an objection is filed on this basis, it must be accompanied by a declaration providing evidence that the proof of claim was not readily available from the court file or otherwise.

(4) If the basis for the objection is that the proof of claim was filed after the bar date, the objection must include a copy of each of the following:

(A) The bar date order, if any;

(B) The notice of bar date; and

(C) Proof of service of the notice of bar date.

(5) If the basis for the objection is that there are duplicate proofs of claim, the objection must include a complete copy of each proof of claim.

LBR 3011-1. <u>PROCEDURE FOR OBTAINING ORDER FOR PAYMENT OF UNCLAIMED FUNDS</u>

(a) <u>Form of Application</u>.

(1) An entity seeking the payment of unclaimed funds pursuant to 28 U.S.C. § 2042 must file an application in compliance with LBR 9013-1 using Form 1340 Application for Payment of Unclaimed Funds.

(2) The failure to comply with this requirement may result in denial of the application without a hearing.

(b) <u>Notice</u>.

(1) An application for payment of unclaimed funds must be served on United States attorney for the Central District of California.

(2) The application will be denied if not served properly on the party listed in subsection (b)(1) of this rule.

(c) <u>Order</u>. The application may be ruled upon without a hearing pursuant to LBR 9013-1(p).

LBR 3014-1. <u>ELECTION UNDER 11 U.S.C. § 1111(b) BY SECURED CREDITOR IN SUBCHAPTER V CASES</u>

(a) <u>Election Deadline</u>.

(1) **<u>Section 1125 Does Not Apply</u>.** In a case under subchapter V of chapter 11 in which 11 U.S.C. § 1125 does not apply, the election under 11 U.S.C. § 1111(b) must be made not later than the date set for filing objections to the plan or another date that the Court may fix.

(2) **<u>Section 1125 Applies</u>.** In a subchapter V case in which the Court has ordered that a combined disclosure statement and plan be filed or that 11 U.S.C. § 1125(f)(3) applies, the election under 11 U.S.C. § 1111(b) must be made not later than the date fixed for objections pursuant to FRBP 3017.1(a)(2) or another date that the Court may fix.

LBR 3015-1. PROCEDURES REGARDING CHAPTER 13 CASES

(a) Applicability.

(1) Except as provided herein, this rule relates to chapter 13 cases in all divisions of the bankruptcy court and supersedes any previous orders in conflict with these provisions.

(2) To the extent that this rule conflicts with any other provisions of the Local Bankruptcy Rules, the provisions of this rule prevail. In all other respects, the Local Bankruptcy Rules apply in all chapter 13 cases.

(b) Filing and Service of Petitions, Plans, Proofs of Claim, and Other Forms.

(1) Filing of Petition and Case Commencement Documents; Effect of Not Filing Timely. An original of the petition, schedules and all other documents required to initiate the case must be filed with the court in accordance with procedures found in The Central Guide.

Except as provided by FRBP 1019(1)(A), if the chapter 13 schedules, plan, and all other required documents are not filed with the petition, the clerk will issue a notice advising the debtor that, if the missing documents are not filed within 14 days from the date of the filing of the petition, the court may dismiss the case, unless the court grants a motion to extend time filed within the 14 days.

(2) Time Extension. A motion for extension of time must comply with LBR 1007-1(b).

(3) Notice and Service of Chapter 13 Plan and Notice of the Hearing on Confirmation. The debtor must serve a notice of the hearing on confirmation of debtor's chapter 13 plan, along with a copy of the chapter 13 plan, on all creditors and the chapter 13 trustee at least 14 days before the date first set for the § 341(a) meeting of creditors, using the court-mandated F 3015-1.01.CHAPTER13.PLAN form. A proof of service must be filed with the court and served on the chapter 13 trustee at least 7 days prior to the date first set for the meeting of creditors.

(4) Forms. The chapter 13 petition, schedules, statement of financial affairs, and proofs of claim must be prepared on the appropriate Official Forms, as required by FRBP 1007(b)(1). All other chapter 13 documents filed by the debtor must be filed using applicable court-approved forms, if any, or be prepared in the same format.

(5) Proof of Claim. Each proof of claim must be filed in accordance with FRBP 3002 and must be served on the debtor's attorney, the debtor, and on the chapter 13 trustee. Each proof of claim must include a proof of service.

(6) Domestic Support Obligations. In all cases in which there is a domestic support

obligation, regardless of the entity holding such claim, the debtor must provide to the chapter 13 trustee prior to or at the meeting of creditors the name, current address, and current telephone number of the holder of the claim along with any applicable case number and account number. Throughout the duration of the case, the debtor must inform the chapter 13 trustee of any new or changed information regarding this requirement. Should a domestic support obligation arise after the filing of the petition, the debtor must provide the required information to the chapter 13 trustee as soon as practicable but no later than 28 days after the duty arises to pay the domestic support obligation.

(7) Deadline to File Pleadings to Avoid Liens under 11 U.S.C. §§ 506(a) and 522(f). Unless otherwise ordered by the court, the debtor shall file any document to value collateral pursuant to 11 U.S.C. § 506(a) and/or any document to avoid a judgment lien pursuant to 11 U.S.C. § 522(f) within 28 days of commencement of the case.

(c) Meeting of Creditors – § 341(a).

(1) Notice and Service. The Clerk's Notice of the § 341(a) meeting of creditors and initial confirmation hearing date will be served on all creditors by the court at least 28 days before the date first set for the § 341(a) meeting of creditors.

(2) Attendance Requirement. The debtor and debtor's attorney (if any) must attend the § 341(a) meeting of creditors. If the case is a joint case, both debtors must appear.

(3) Evidence of Income. The debtor must provide evidence of current income (pay stubs, tax returns, or other equivalent documentation) to the chapter 13 trustee at least 7 days before the § 341(a) meeting of creditors. If income from third party contributors will be used to fund the plan, the debtor must also provide evidence (declarations and pay stubs or other appropriate evidence) of the commitment and the contributor's proof of income for a full month.

(4) Required Reports when the Debtor is Self-Employed and has No Employees. If the debtor is self-employed but has no employees, the debtor must submit to the chapter 13 trustee at least 7 days before the § 341(a) meeting of creditors, the following:

(A) Projection of average monthly income and expenses for the next 12 months;

(B) Bank statements for the 6 months prior to the filing of the case for all bank accounts;

(C) Tax returns for at least 2 years or since the start of the business, whichever period is shorter; and

(D) Such other reasonable evidence requested by the chapter 13 trustee.

(5) Required Reports when a Debtor is Self-Employed and Has Employees. If the debtor is operating a business or is otherwise self-employed, the debtor must submit to the chapter 13 trustee at least 7 days before the § 341(a) meeting of creditors, the following:

(A) Projection of average monthly income and expenses for the next 12 months;

(B) Evidence of appropriate business insurance;

(C) Inventory of goods as well as a list of business furnishings and equipment as of the date of the filing of the petition;

(D) Monthly income and expense statements for at least the 6 months preceding the date of the filing of the petition, or for such shorter time if the business has been in operation for less than the requisite 6 months, signed by the debtor under penalty of perjury;

(E) Tax returns for at least 3 years or since the start of the business, whichever period is shorter; and

(F) Such other reasonable evidence requested by the chapter 13 trustee, including bank statements, canceled checks, contracts, or other information relevant to the debtor's ability to fund the proposed plan.

(6) Failure to Comply. If the debtor fails to comply with any of the requirements of this subsection (c) of this rule, such failure may result in:

(A) Disgorgement of attorneys' fees if the failure is attributed to the debtor's attorney;

(B) Continuance of the § 341(a) meeting or confirmation hearing; and/or

(C) Dismissal of the case either (i) without prejudice or (ii) with a 180-day bar to being a "debtor" in accordance with 11 U.S.C. § 109(g), if the court finds willful failure of the debtor to abide by orders of the court or to appear before the court in proper prosecution of the case.

(d) Confirmation Hearing. The debtor's attorney or the debtor, if not represented by counsel, must appear at the confirmation hearing unless specifically excused by court order or by the trustee prior to the confirmation hearing in conformance with procedures of the judge to whom the case is assigned.

(1) Date of Confirmation Hearing. Unless otherwise ordered by the court, a confirmation hearing will be held no earlier than 20 days after the commencement of the § 341(a) meeting of creditors.

(2) Preparation of Order Confirming Plan.

(A) Lodgement of Order. Unless otherwise ordered by the court, the chapter 13 trustee will prepare on the mandatory form and lodge a proposed Order Confirming Plan ("Order") using procedures established by the Clerk's Office that will docket and serve the Notice of Lodgment and a copy of the lodged order to all CM/ECF users registered to receive notices on the case. In the case of a self-represented debtor who does not automatically receive service of the Notice of Lodgment and a copy of the lodged order, the trustee must serve such debtor by first class mail.

(B) Opportunity to Object. Within 7 days of the Notice of Lodgment, any party may file an objection to the proposed Order, attaching an alternative proposed Order at the objector's discretion. The objecting party shall set a hearing on the objection on not less than 7 and no more than 28 days' notice on a regular chapter 13 miscellaneous motion calendar.

(C) Entry of Order if No Objection. If no objection is filed within 7 days, the proposed Order will then be reviewed and approved or modified by the court and entered on the docket.

(D) Hearing on Objection and Entry of Order. At the noticed hearing, the court shall rule on the objection and the form of Order, after which an Order will be entered at the court's direction.

(E) Service of Entered Order. The Order will be served by the court on the debtor and the debtor's attorney.

(e) Personal Property, including Vehicles.

(1) Postpetition Payments. The plan may provide that postpetition contractual payments on leases of personal property and claims secured by personal property, including vehicles, will be made directly to the creditor. All such direct payments must be made as they come due postpetition. If there are arrearages or the plan changes the amount of payment, duration, or interest rate for any reason, including the fact that a portion of the claim is deemed unsecured, then all payments so provided in the plan must be paid through the chapter 13 trustee. If the plan provides for postpetition contractual payments to be made through the chapter 13 trustee, the debtor must pay the lease and adequate protection payments required by 11 U.S.C. §§ 1326(a)(1)(B) and 1326(a)(1)(C) through the chapter 13 trustee.

(2) Property Surrendered in Confirmed Plan. When the confirmed plan provides for the surrender or abandonment of property, the trustee is relieved from making any payments on the creditor's related secured claim, without prejudice to the creditor's right to file an amended unsecured claim for a deficiency, when appropriate. The stay is terminated as to the surrendered collateral upon entry of the order confirming

the plan.

(3) Evidence of Payment.

(A) Filing and Service of Declaration At least 14 days prior to the dates set forth below in subparagraph (e)(3)(B), the debtor must file and serve on the chapter 13 trustee and all secured creditors to whom the debtor is required to make payments under this subsection a declaration on court-mandated form F 3015-1.4.DEC.PRECONF.PYMTS, evidencing that the debtor has made all of the payments required by subsection (e)(1) of this rule. Unless otherwise ordered by the court, copies of all money orders, cashier's checks or other instruments used to make the payments need not be attached to the form. The first form, and each updated form, must reflect, cumulatively, all payments made between the date of the petition and the date of the form.

(B) Events Requiring Evidence of Payment. The events requiring evidence of payment are:

(i) the date scheduled for each § 341(a) meeting of creditors; and

(ii) the date scheduled for each hearing to consider confirmation of a chapter 13 plan in the case.

(C) Bring Declarations to All § 341(a) Meetings of Creditors and Hearings on Plan Confirmation. The debtor must bring a copy of an executed form F 3015-1.4.DEC.PRECONF.PYMTS, together with a proof of service reflecting service establishing compliance with subparagraph (e)(3)(B).

(f) Domestic Support Obligations. The plan may provide for current payments of domestic support obligations directly to the creditor. The plan may provide for payment of a domestic support obligation arrearage and any such arrearage must be paid through the chapter 13 trustee.

(g) Objections to Plan.

(1) Filing and Service. Objections, if any, to the confirmation of the plan must be in writing, supported by appropriate declarations or other admissible evidence, filed with the court, and served on debtor's attorney, the debtor (if not represented by counsel), and the chapter 13 trustee not less than 14 days before the date set for the confirmation hearing.

(2) Form of Objection and Caption. A written objection must state in the caption the date, time, and place of the § 341(a) meeting of creditors and the date, time, and place of the confirmation hearing.

(3) Failure to Object or to Prosecute Objection. The failure to file a written objection on a timely basis may be deemed a waiver of the objection.

(4) Attendance. If the objecting creditor does not appear at the confirmation hearing, the court may overrule the objection.

(h) Amendments to Plan Prior to the Confirmation Hearing.

(1) Filing and Service. Failure to comply with these requirements may result in continuance of the confirmation hearing or dismissal of the case.

(A) Amendments Not Treating Claims Adversely. If a debtor wishes the court to confirm a plan other than the plan originally filed with the court and files the amended plan, the amended plan must be filed and served on the chapter 13 trustee at least 7 days before the confirmation hearing.

(B) Amendments Treating Claims Adversely. If the amended plan will adversely affect any creditor (for example, if it treats any creditor's claim less favorably than the previously filed plan), the amended plan must be filed and served on all affected creditors and the chapter 13 trustee at least 28 days before the confirmation hearing.

(2) Caption of Amended Plan. The caption of an amended plan must identify that it is an amended plan (*e.g.*, "First Amended Plan," "Second Amended Plan") and must state the date, time, and place of the confirmation hearing at which the debtor will seek confirmation.

(3) Effects of Amended Plan on Plan Payments. If the debtor files an amended plan, the debtor must tender plan payments which come due after the filing date of the amended plan in the amount set forth in the amended plan. The amended plan shall also take into account all prior plan payments tendered to the chapter 13 trustee and shall state the amount of each prior payment and the month to which that prior payment is attributed to.

(4) Amendments to Plan at the Confirmation Hearing. If a debtor wishes the court to confirm a plan other than the plan originally filed with the court, and the proposed amendments are not contained in the original plan or a timely filed amended plan, the amendment may be made by oral motion at the confirmation hearing if the amendment to a plan does not adversely affect creditors. The proponent of the amendment should give the chapter 13 trustee an opportunity to review the proposed amendment prior to the confirmation hearing.

(i) *INTENTIONALLY LEFT BLANK***.**

(j) Payment on Proofs of Claim Subject to Objections to Claims. Pending resolution, the chapter 13 trustee will make payments on only the uncontroverted portion of the claim subject to the objection to claim, until such time as the court orders otherwise.

(k) Plan Payments to Chapter 13 Trustee.

(1) Plan Payment Procedure.

(A) Plan payments are due on the same day of each month beginning not later than 30 days after the petition is filed. If the case was converted from chapter 7, the first plan payment is due 30 days from the date of conversion. However, if the plan payment due date falls on the 29th, 30th, or 31st of the month, then the plan payment is due on the 1st of the following month. Unless otherwise instructed by the assigned chapter 13 trustee, all plan payments that accrue before the § 341(a) meeting of creditors must be tendered, in the form described in subsection (k)(3) of this rule, to the chapter 13 trustee or the trustee's representative at the § 341(a) meeting of creditors.

(B) All plan payments that accrue after the § 341(a) meeting of creditors but prior to confirmation must be tendered on a timely basis to the chapter 13 trustee, as instructed by the chapter 13 trustee at the § 341(a) meeting of creditors.

(C) All plan payments that accrue after confirmation of the plan must be sent to the address provided by the chapter 13 trustee.

(D) To the extent the debtor has made plan payments under an original or modified plan prior to confirmation that differ from payments required by the confirmed plan, the confirmation order must account for plan payments made through the date of confirmation and adjust the on-going plan payments accordingly so that the debtor will complete payment of all plan amounts within the term of the confirmed plan.

(2) Adequate Protection Payments. The debtor cannot reduce the amount of the plan payments to the chapter 13 trustee under 11 U.S.C. §§ 1326(a)(1)(B) or 1326(a)(1)(C) without an order of the court.

(A) Pending confirmation of the plan, the chapter 13 trustee will promptly disburse payments received from the debtor as proposed in the debtor's chapter 13 plan to a creditor holding an allowed claim secured by personal property where such security interest is attributable to the purchase of such property.

(B) The chapter 13 trustee may assess an administrative fee for effecting the payments required in subsection (k)(2)(A) of this rule and may collect such fee at the time of making the payment. The allowed expense fee must be no more than the percentage fee established by the Attorney General pursuant to 28 U.S.C. § 586(e)(1)(B) in effect at the time of the disbursement.

(C) Should the case be dismissed or converted prior to or at the hearing on

confirmation of the plan, any portion of the balance on hand which has been tendered to the chapter 13 trustee for adequate protection must be disbursed to the creditor to whom those adequate protection payments are owed as soon as practicable.

(3) Form of Payment. Unless and until a payroll deduction order is effective, all plan payments must be paid electronically, in the form of cashier's check, certified funds, money order made payable to the "Chapter 13 Trustee," or other means approved by the chapter 13 trustee in advance, and tendered by the debtor as instructed by the chapter 13 trustee. The court may require plan payments through a payroll deduction order. If a payroll deduction order is not authorized in the confirmation order, whenever a plan payment is more than 21 days late, the chapter 13 trustee may file and serve a motion requesting the court to issue such an order. The entered order must be served upon the debtor's employer, the debtor, and the debtor's attorney (if any).

(4) Dismissal or Conversion for Non-Payment. If the debtor fails to make a plan payment, the case may be dismissed or converted to a case under chapter 7. If the case is dismissed for willful failure of the debtor to abide by an order of the court, or to appear before the court in proper prosecution of the case, the court may impose a 180-day bar to being a "debtor" in accordance with 11 U.S.C. § 109(g).

(l) *INTENTIONALLY LEFT BLANK*.

(m) Payments on Mortgages or Trust Deeds.

(1) Scope of Rule. The term "Real Property" as used in this subsection includes both (A) commercial and residential real property and undeveloped land owned by the debtor; and (B) mobile and manufactured homes owned by the debtor and installed on a permanent foundation or used as a dwelling, but does not include any property that the debtor's filed plan specifically states will be surrendered.

(2) Postpetition Payment Procedure. Except for plans in which the debtor elects to make postpetition mortgage payments through the plan, until a plan is confirmed, a debtor must pay in a timely manner directly to each secured creditor all payments that fall due postpetition on debt secured by Real Property, as defined above, and must provide evidence of such payments on court-mandated form F 3015-1.4.DEC.PRECONF.PYMTS in the manner set forth below.

The plan may provide that postpetition mortgage payments will be made directly to the creditor. All such direct payments must be made as they come due postpetition. If there are arrearages or the plan changes the amount of payment, duration, or interest rate for any reason, including the fact that a portion of the claim is deemed unsecured, then all payments so provided in the plan must be paid through the chapter 13 trustee. If the debtor elects to pay postpetition mortgage payments through the chapter 13 trustee, then the amount of the mortgage payment must be

included in each monthly plan payment tendered to the chapter 13 trustee for the term of the plan.

(3) Determination of Due Date. With the exception of the payment due for the month in which the petition is filed (the "Filing Month Payment"), the due date of a payment for the purpose of this subsection is the last day that the payment may be made without a late charge or penalty. The due date of the Filing Month Payment will be the date on which such payment first becomes due under the terms of the applicable promissory note. If that date falls on or before the petition date, the Filing Month Payment will be considered prepetition and need not be paid in order to comply with this subsection.

(4) Real Property Surrendered in Confirmed Plan. When the confirmed plan provides for the surrender of real property, the trustee is relieved from making any payments on the creditor's related secured claim, without prejudice to the creditor's right to file an amended unsecured claim for a deficiency, when appropriate. The stay is terminated as to the surrendered collateral upon entry of the order confirming the plan.

(5) Form of Payment. The payments required by subsection (m)(2) of this rule must be in the form of money order, cashier's check, wire transfer (including direct payments over the Internet or by automatic withdrawals from the debtor's checking account), certified funds, or other instruments used to make the payments and must indicate on each item the debtor's name, the bankruptcy case number, and the appropriate loan number or credit account number.

(6) Evidence of Payment

(A) Filing and Service of Declaration. At least 14 days prior to the dates set forth below in subparagraph (m)(6)(B), the debtor must file with the court and serve on the chapter 13 trustee and all secured creditors to whom the debtor is required to make payments under this subsection a declaration on court-mandated form F 3015-1.4.DEC.PRECONF.PYMTS, evidencing that the debtor has made all of the payments required by subsection (m)(2) or (3) of this rule. Unless otherwise ordered by the court, copies of all money orders, cashier's checks, wire transfers (including direct payments over the Internet or by automatic withdrawals from the debtor's checking account), certified funds, or other instruments used to make the payments need not be attached to the form. The first form, and each updated form must reflect, cumulatively, all payments made between the date of the petition and the date of the form. If the debtor owns more than one parcel of Real Property, the debtor must prepare and submit a separate form F 3015-1.4.DEC.PRECONF.PYMTS for each parcel of Real Property.

(B) Events Requiring Evidence of Payment. The events requiring evidence of payment are:

(i) the date scheduled for each § 341(a) meeting of creditors; and

(ii) the date scheduled for each hearing to consider confirmation of a chapter 13 plan in the case.

(C) Bring Declaration to All § 341(a) Meetings of Creditors and Hearings on Plan Confirmation. The debtor must bring a copy of an executed form F 3015-1.4.DEC.PRECONF.PYMTS, together with a proof of service reflecting service in accordance with this subsection, to all dates set forth above in subparagraph (m)(6)(B).

(7) Failure to Make Postpetition Payments. Failure to make all of the payments required by subsection (m)(2) or (3) of this rule in a timely manner will generally result in dismissal of the case. In determining whether a debtor has complied with this subsection at a confirmation hearing, the court will disregard payments as to which a late penalty has not yet accrued or which are due on the date of the confirmation hearing. The failure to submit form F 3015-1.4.DEC.PRECONF.PYMTS at each § 341(a) meeting of creditors and each confirmation hearing, with all required attachments, may result in dismissal of the case, and the court may impose a 180-day bar to being a debtor pursuant to 11 U.S.C. § 109(g).

(n) Modification of Confirmed Plan or Suspension of Plan Payments. After a chapter 13 plan has been confirmed, its terms can be modified only by court order upon a motion to modify the plan or a stipulation between the debtor and the chapter 13 trustee. A motion to modify a confirmed plan or to suspend plan payments must be made in accordance with subsections (w) and (x) of this rule and must be filed using court-mandated forms.

(o) Tax Returns. For each year a case is pending after the confirmation of a plan, the debtor must provide to the chapter 13 trustee within 14 days after the return is filed with the appropriate tax agencies a copy of: (1) the debtor's federal and state tax returns; (2) any request for extension of the deadline for filing a return; and (3) the debtor's forms W-2 and 1099. The debtor must timely file with the appropriate tax authority all tax returns that come due after commencement of the case.

(p) Sale or Refinance of Real Property. A sale or refinancing of the debtor's principal residence or other real property must be approved by the court. A motion to approve a sale or refinance of real property may be made by noticed motion in accordance with subsections (w) and (x) of this rule.

(q) Dismissal or Conversion of Case.

(1) Debtor Seeks Dismissal.

(A) Case Has Not Been Previously Converted. If the case has not been

converted from another chapter, a debtor may seek dismissal of the case by filing with the clerk of the bankruptcy court a request for voluntary dismissal pursuant to 11 U.S.C. § 1307(b) and may be ruled on without a hearing pursuant to LBR 9013-1(q). The proof of service must evidence that the request for dismissal was served upon the chapter 13 trustee and the United States trustee.

(B) Case Has Been Previously Converted. If the case has been converted from another chapter, a debtor must file and serve a motion in accordance with LBR 9013-1 (d) or (o) and LBR 1017-2(e). Notice must be given to the chapter 13 trustee, any former trustee, all creditors, and any other party in interest entitled to notice under FRBP 2002.

(C) Mandatory Disclosure. Whether dismissal is sought by request or motion, a debtor must disclose under penalty of perjury whether the present case has been converted from another chapter of the Bankruptcy Code, and whether any motion for relief from, annulment of, or conditioning of the automatic stay has been filed against the debtor in the present case.

(2) Debtor Seeks Conversion.

(A) Debtor Seeks First Time Conversion of Chapter 13 to Chapter 7. Pursuant to 11 U.S.C. § 1307(a), FRBP 1017 and LBR 1017-1(a)(1), the conversion of a chapter 13 case to a case under chapter 7 (for the first time) will be effective upon:

(i) The filing by the debtor with the clerk of the bankruptcy court of a notice of conversion using court-mandated form F 3015-1.21.NOTICE.CONVERT.CH13 and a proof of service evidencing that the notice of conversion was served upon the chapter 13 trustee and the United States trustee; and

(ii) Payment of any fee required by 28 U.S.C. § 1930(b).

(B) Debtor Seeks Subsequent Conversion of Chapter 13 to Chapter 7. If the case has previously been converted from another chapter, a debtor must file and serve a motion in accordance with LBR 9013-1(d) or (o). Notice must be given to the chapter 13 trustee, any former trustee, and all creditors.

(C) Debtor Seeks Conversion of Chapter 13 to Chapter 11. A motion by the debtor to convert a chapter 13 case to a case under chapter 11 must be filed, served and set for hearing in accordance with LBR 9013-1(d). Notice must be provided to the chapter 13 trustee and all creditors.

(3) Interested Party Seeks Dismissal or Conversion of Chapter 13 to Chapter 7, 11, or 12. A motion by any other party in interest to either dismiss a chapter 13 case, or

alternatively, to convert a chapter 13 case to a case under chapter 7, 11, or 12, must be noticed for hearing by the moving party pursuant to LBR 9013-1(d). This notice must be given to the debtor, debtor's attorney (if any), all creditors, the chapter 13 trustee, any former trustee, and the United States trustee.

(4) Lodging and Service of Order. When an order is required, the moving party must prepare and lodge the proposed order of dismissal or conversion in accordance with LBR 9021-1 and The Central Guide. The Clerk will prepare a separate notice of dismissal or conversion.

(5) Distributions before Notice to the Chapter 13 Trustee. Any distributions of estate funds made by the chapter 13 trustee in the ordinary course of business for the benefit of the debtor's estate prior to receipt of notice of dismissal or conversion will not be surcharged to the chapter 13 trustee.

(6) Distributions after Notice to Chapter 13 Trustee. Unless the court orders otherwise, and subject to the provisions below regarding contested distributions, the following procedures implement the requirement that the chapter 13 trustee return to the debtor (i) any postpetition earnings and (ii) any other property that is no longer property of the estate and that is vested in the debtor, after deduction for any unpaid administrative expense and certain other claims, under 11 U.S.C. §§ 348(f), 349(b), 1326(a)(2), and FRBP 1019(5) or (6).

(A) 14 Day Holding Period. The chapter 13 trustee must hold any remaining property until at least 14 days have passed after entry of the order dismissing or converting the case. Within 14 days of dismissal or conversion any person or entity asserting an administrative expense under 11 U.S.C. § 503 (including, without limitation, a claim for professional fees), or a claim under §1326(a)(2) and (3), must file an application, motion or other written request for payment thereof, set it for hearing if required, serve it pursuant to the applicable rules, and, if the document is not filed electronically, deliver it to the chapter 13 trustee so that it is received before the end of such 14-day period. If the claimant fails to do all of these things timely (the "Claim Prerequisites"), then the chapter 13 trustee may treat such request as having been filed after the 14-day deadline and of no force of effect, absent a court order to the contrary. After the deduction of any applicable chapter 13 trustee fees, the chapter 13 trustee must make distributions as follows:

(i) Distributions to Administrative Claimants. First, pro rata distributions to the holders of administrative expenses under 11 U.S.C. § 503(b) as to which (1) the Claim Prerequisites have been satisfied timely and (2) as to which the court has entered an order approving payment.

(I) Administrative expenses to which subparagraph (6)(A)(i) is applicable include without limitation: (a) any unpaid attorney's fee or expense asserted under a Rights and Responsibilities Agreement

signed by the debtor's attorney and the debtor or an FRBP 2016(b) statement, (b) any supplemental fee or expense under 11 U.S.C. § 330, (c) any administrative expenses scheduled under FRBP 1019(5)(B) or (C), and (d) any other administrative expense.

(II) Unless a different deadline has been established in connection with a scheduled hearing, any application, motion or other request for payment of an administrative expense under 11 U.S.C. § 503(b) must advise parties in interest that any objection to the allowance and payment of such expense must be filed and served no later than 14 days following service of such application or request, or such objection must be deemed waived. Any objection must be served on the applicant, the chapter 13 trustee and the debtor. If the objection is not filed electronically, it must be served so that it is received by these parties within such 14-day period. If an objection is timely filed, the applicant must schedule a hearing with the court and serve notice of such hearing on interested parties.

(ii) Distributions to Certain Creditors. Second, after any distributions to the holders of administrative expenses as provided above, pro rata distributions on the allowed claims of any persons who have filed an application for payment of amounts due and owing pursuant to 11 U.S.C. § 1326(a)(2) and (3) that satisfies the above Claim Prerequisites.

(iii) Distributions to the Debtor.

(I) Postpetition Earnings. After the foregoing distributions, the chapter 13 trustee must distribute any remaining postpetition earnings to the debtor, or to the chapter 11 trustee if the chapter 13 trustee has been served with an order or notice of appointment of a chapter 11 trustee.

(II) Other Property. If the chapter 13 trustee holds any property known to the chapter 13 trustee to come from a source other than postpetition earnings, such as proceeds from the sale of property, and that property is not automatically vested in any entity (e.g., under 11 U.S.C. § 349(b)(3)), then the chapter 13 trustee must treat such property as a contested distribution pending an order, on an application by a party in interest, authorizing a proposed distribution to the debtor or other persons pursuant to 11 U.S.C. § 348(f)(1) (for conversion) or 11 U.S.C. § 349(b) (for dismissal) and 11 U.S.C. § 1326(a)(2).

(B) Contested Distributions. Notwithstanding the foregoing, if an application, motion request or objection regarding distribution is pending, or if the

chapter 13 trustee files an application for instructions from the court for direction concerning the distribution of funds, then the chapter 13 trustee must reserve sufficient funds to pay the maximum requested amounts, pending resolution by order or by consent of the affected persons.

(r) Motions Regarding Stay of 11 U.S.C. § 362.

(1) Required Format and Information. A motion regarding the stay of 11 U.S.C. § 362 must comply with LBR 4001-1.

(2) Motions Regarding Default in Payment.

(A) Preconfirmation Default. A motion for relief from the automatic stay based solely upon a preconfirmation payment default is premature until a late charge has accrued under the contract on the postpetition obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 14 days after the postpetition payment is due. A motion for relief from stay based on other grounds may be brought at any time.

(B) Postconfirmation Default. A motion for relief from the automatic stay based solely on postconfirmation payment default is premature until a late charge has accrued under the contract on the obligation that the creditor seeks to enforce. If no late charge is provided, the motion may be brought 14 days after payment is due.

(3) Stipulations Regarding the Stay of 11 U.S.C. § 362. A stipulation for relief from the automatic stay or to modify the automatic stay, or to impose or continue the stay, does not require the consent or signature of the chapter 13 trustee unless the provisions of the stipulation require the trustee to continue payment, discontinue payment, or perform other actions. Such stipulations must be approved by a court order that must be prepared and lodged in accordance with LBR 4001-1(b)(2)(B).

(4) Payments after Relief from Automatic Stay. If an order is entered granting relief from the automatic stay, unless otherwise specified in the order, the chapter 13 trustee is relieved from making any further payments to the secured creditor that obtained such relief. The secured portion of that creditor's claim is deemed withdrawn upon entry of the order for relief, without prejudice to filing an amended unsecured claim for a deficiency when appropriate. The secured creditor that obtains relief from the automatic stay must return to the chapter 13 trustee any payments the creditor receives from the chapter 13 trustee after entry of the order unless the stipulation or order provides otherwise.

(5) No Surcharge of Chapter 13 Trustee. The chapter 13 trustee will not be surcharged for any distribution of funds in the ordinary course of business prior to receiving written notice that the automatic stay is not in effect or a claim should not be paid.

(s) Postconfirmation Adequate Protection Orders.

(1) Filing and Service. After an order confirming a plan is entered, if the debtor proposes to modify the payments by the chapter 13 trustee to the secured creditor by way of an adequate protection/relief from the automatic stay agreement, the debtor must file and serve a motion for an order approving the modification of the plan by the agreement pursuant to subsections (w) and (x) of this rule.

(2) Payments Pending Plan Modification. Notwithstanding court approval of an adequate protection/relief from the automatic stay agreement, the trustee will continue to make payments and otherwise perform the trustee's duties in accordance with the plan as confirmed unless: (A) the debtor receives a separate court order approving a modification to the plan; or (B) the adequate protection/relief from the automatic stay agreement specifically modifies the treatment of the claim under the confirmed plan.

(t) Discharge Procedures.

(1) General. When the chapter 13 trustee has completed payments under the plan and all other plan provisions have been consummated, the clerk will send to the debtor and the debtor's attorney (if any), a Notice of Requirement to File a Debtor's Certification of Compliance Under 11 U.S.C. § 1328 and Application for Entry of Discharge. Before any discharge may be entered, the debtor must comply with the requirements of the Certification of Compliance and file the certification with the court.

(2) Instructional Course on Personal Financial Management. Debtor must also file a certification that an instructional course concerning personal financial management, as required by 11 U.S.C. § 1328(g)(1), has been completed or that completion of such course is not required under 11 U.S.C. § 1328(g)(2).

(3) Case Closure without Discharge. If the certifications required by this subsection have not been filed within 60 days of the notice provided under subsection (t)(1) of this rule, then the case may be closed without an entry of discharge.

(u) Attorney Representation.

(1) Scope of Employment. LBR 2090-1(a) is modified in chapter 13 cases as follows: Any attorney who is retained to represent a debtor in a chapter 13 case is responsible for representing the debtor on all matters arising in the case, other than adversary proceedings, subject to the provisions of a "Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys," into which the debtor and the attorney have entered and that complies with these rules.

(2) Debtor Unavailable or Unopposed to Request, Application, or Motion Scheduled

for Hearing. If an attorney for a debtor is unable to contact the debtor in connection with a request, application or motion (*e.g.*, a motion for relief from the automatic stay) that is scheduled for a hearing, the attorney may file and serve a statement informing the court of this fact. If a debtor does not oppose the request, application or motion, the attorney may file a statement so informing the court and need not appear at the hearing.

(3) Change of Address. An attorney representing a chapter 13 debtor must provide written notice to the chapter 13 trustee and to the court of any change to the attorney's address during the pendency of the case as required by LBR 2091-1(f).

(v) Attorneys' Fees.

(1) Rights and Responsibilities Agreement. The use of court-approved form F 3015-1.7.RARA, Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys ("RARA") in any case is optional. However, if the debtor's attorney elects to proceed under the RARA, the RARA form is mandatory. If the RARA form is signed by the attorney and the debtor, filed, and served on the chapter 13 trustee, the fees and included costs (excluding the petition filing fee) outlined therein may be approved without further detailed fee application or hearing, subject to the terms of both the RARA and the Guidelines for Allowance of Attorneys' Fees in Chapter 13 Cases ("Guidelines") adopted by the court. The RARA may be used only once in any chapter 13 case.

(2) Duties of Debtors and their Attorneys if the RARA is Signed, Filed, and Served. The RARA sets forth the duties and obligations that must be performed by the debtor and debtor's attorney, both before and after the case is filed and before and after confirmation of a plan, if the parties elect to use the RARA. The RARA also specifies the fees that the attorney will charge and the procedures for seeking and objecting to payment of fees. An attorney who elects to use the RARA may not charge more than the maximum fees outlined in subsection (v)(1) of this rule for performing services described in bold face type in the RARA. If the attorney performs tasks on behalf of the debtor not set forth in bold face, the attorney may apply to the court for additional fees and costs, but such applications will be reviewed by both the chapter 13 trustee and the court. Counsel may apply for additional fees if and when justified by the facts of the case.

An application for additional fees and costs must be made by noticed motion subject to subsections (w) and (x) of this rule. The application must be supported by evidence of the nature, necessity, and reasonableness of the additional services rendered and expenses incurred, and in accordance with The Central Guide, Section 4, 3015-1(v)(2). When additional fees are sought, the court may, in its discretion, require additional supporting information or require a hearing, even though no opposition is filed. In such application, the applicant must disclose to the court any fees paid or costs reimbursed by the debtor and the source of those payments.

If the parties elect to utilize the RARA, the lists of duties and obligations set forth in the RARA may not be modified by the parties. Other portions of the RARA may be modified in the following respects only: (A) the attorneys' fees provided for in the RARA may be reduced; and (B) the agreement may be supplemented to include any additional agreements that may exist between the parties concerning the fees and expenses that the attorney will charge for performing services required by the RARA that are not in bold face type.

(3) Debtor's Signature. The debtor's signature on the RARA certifies that the debtor has read, understands, and agrees to the best of the debtor's ability to carry out the terms of the RARA and has received a signed copy of the RARA.

(4) Attorney's Signature. The attorney's signature on the RARA certifies that before the case was filed the attorney personally met with, counseled, and explained to the debtor all matters set forth in the RARA and verified the number and status of any prior bankruptcy case(s) filed by the debtor or any related entity, as set forth in LBR 1015-2. The RARA does not constitute the written fee agreement contemplated by the California Business and Professions Code.

(5) An Attorney May Elect to be Paid other than Pursuant to the RARA and the Guidelines. At any time, when a RARA has not been entered into, or has been withdrawn with the written consent of the client(s), or when the attorney is seeking supplemental fees beyond the services in boldface that are "Included Costs" under the RARA, the debtor's attorney may elect to seek an allowance of fees and costs other than pursuant to the RARA and the Guidelines. In that event, the attorney must file and serve an application for fees in accordance with 11 U.S.C. §§ 330 and 331, FRBP 2016 and 2002, and LBR 2016-1 and 3015-1, as well as the "Guide to Applications for Professional Compensation" issued by the United States trustee for the Central District of California.

(6) Court Review of any Attorney's Fee. Upon notice and opportunity for hearing, the court may review any attorney's fee agreement or payment, in accordance with 11 U.S.C. § 329 and FRBP 2017.

(w) Motions and Applications Filed on Notice of Opportunity to Request a Hearing.

(1) Motions and Applications. The following motions and applications may be made on notice of opportunity to request a hearing pursuant to LBR 9013-1(o):

(A) Chapter 13 trustee's motion to modify a confirmed plan or dismiss a case;

(B) Motion to modify a confirmed plan or to suspend or extend plan payments, subject to subsections (n) and (x) of this rule, provided that 21 days' notice of the motion is given in accordance with FRBP 3015(g);

(C) Motion for approval of sale or refinancing of debtor's residence, subject to subsection (p) of this rule, if the entire equity therein is exempt from the claims of creditors; provided, however, notice is not required if the sale or refinance will pay off the plan and the plan allows 100% to the unsecured claims; and

(D) Application for supplemental attorney's fees, subject to subsections (u), (v) and (x) of this rule.

(2) No Response Filed. If no response has been timely filed and served with respect to a motion or application listed in subsection (w)(1) of this rule, or the chapter 13 trustee's only response is to take no position, the provisions of LBR 9013-1(o)(3) must be complied with, subject to the following modifications:

(A) Motion to Modify a Confirmed Plan or to Suspend or Extend Plan Payments. The declaration must also attest that the chapter 13 trustee did not timely file and serve a response to the motion, and the declaration must be served on the chapter 13 trustee.

(B) Application for Supplemental Fees. The declaration must attest that the chapter 13 trustee did not timely file and serve a response to the application, or took no position, and the declaration must be served on the chapter 13 trustee.

(3) Response Filed. If a response is filed with respect to any motion or application listed in subsection (w)(1) of this rule, the provisions of LBR 9013-1(o)(4) must be complied with, subject to the following modifications:

(A) Trustee's Motion to Dismiss a Case; Trustee's Motion to Modify a Confirmed Plan. The person or entity who timely files and serves a response to a trustee's motion to dismiss a case, or a trustee's motion to modify a confirmed plan, must, prior to filing and serving the response, obtain a hearing date from the court (or use the court's self-calendaring system) and the hearing date, time and location must be indicated on the caption page of the response. The hearing date must be the court's next available chapter 13 calendar that provides the chapter 13 trustee with at least 7 days of notice, but the hearing date must not be more than 30 days after the response is filed. The court may grant the motion without a hearing if the hearing is not set timely.

(B) Debtor's Motion to Modify a Confirmed Plan or Suspend or Extend Plan Payments, or Application for Supplemental Fees. If the chapter 13 trustee timely files and serves any comments regarding the motion or application, the debtor must promptly lodge a proposed order, and, when serving a judge's copy of the notice of lodgment, include a copy of the motion/application and the trustee's comments.

(x) **<u>Service of Motions and Applications</u>.** All motions and applications must be served, subject to the electronic service provisions of LBR 9036-1, on the chapter 13 trustee, debtor (and debtor's attorney, if any), and all creditors, with the following exceptions:

(1) A chapter 13 trustee's motion to dismiss a case need be served only on the debtor, debtor's attorney (if any), any prior chapter 7 trustee, and that trustee's attorney (if any);

(2) An objection to a claim must be served on the chapter 13 trustee, the claimant, and the claimant's attorney (if any). If the claimant is the United States or an officer or agency of the United States, the objection must be served as provided in FRBP 7004(b)(4) and (5) and LBR 2002-2;

(3) A motion for modification, suspension, or extension of the due date of plan payments must be filed using court-mandated forms and must be served on the chapter 13 trustee, but need not be served on creditors if: (A) the proposed modification does not have an adverse effect on the rights of creditors; or (B) the proposed suspension or extension, combined with any prior approved suspensions or extensions, does not exceed 90 days of suspended payments or 90 days of extensions to the plan's term. Any other motion for modification, suspension, or extension must be served on all creditors pursuant to LBR 9013-1(o) in addition to being served on the chapter 13 trustee;

(4) A motion regarding the stay of 11 U.S.C. § 362, which is subject to the notice and service requirements of LBR 4001-1; and

(5) An application by debtor's counsel for additional fees and costs not exceeding $1,000 over and above the limits set forth in the RARA and Guidelines need be served only on the chapter 13 trustee and the debtor.

LBR 3017-1. <u>CHAPTER 11 DISCLOSURE STATEMENT – APPROVAL IN CASE OTHER THAN SMALL BUSINESS CASE</u>

(a) **<u>Notice of Hearing on Motion for Approval of Disclosure Statement</u>.** A hearing on a motion for approval of a disclosure statement must not be set on less than 42 days notice, unless the court, for good cause shown, prescribes a shorter period.

(b) **<u>Objections to Disclosure Statement.</u>** Objections to the adequacy of a disclosure statement must be filed and served on the proponent not less than 14 days before the hearing, unless otherwise ordered by the court.

LBR 3017-2. CHAPTER 11 DISCLOSURE STATEMENT – APPROVAL IN SMALL BUSINESS CASES AND WHEN REQUIRED IN SUBCHAPTER V CASES

(a) **Applicability.** This LBR applies in a small business case or in a case under subchapter V of chapter 11 in which the Court has ordered that 11 U.S.C. § 1125 applies.

(b) **Conditional Approval of Disclosure Statement .** The court may, on application of the plan proponent or without an application, conditionally grant a motion for approval of a disclosure statement filed in accordance with 11 U.S.C. § 1125(f) and FRBP 3016.

(c) **Procedure for Requesting Conditional Approval of Disclosure Statement.** The plan proponent may file a motion, without complying with LBR 9013-1(d) or LBR 9013-1(o), for conditional approval of the disclosure statement, asking that the hearing on the adequacy of the disclosure statement be combined with the hearing on plan confirmation. The motion must be supported by a declaration establishing grounds for conditional approval and accompanied by a proposed order consistent with FRBP 2002(b) that conditionally approves the disclosure statement and establishes:

(1) A date by which the holders of claims and interests may accept or reject the plan;

(2) A date for filing objections to the disclosure statement;

(3) A date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and

(4) A date for the hearing on confirmation of the plan.

(d) **Objections and Hearing on Final Approval.**

(1) The debtor must file and serve a notice of the dates set forth above, together with a copy of the disclosure statement and plan, on all creditors and the United States trustee.

(2) Final approval of the disclosure statement is required only when a timely objection is filed and served on the debtor, the trustee (if any), any committee appointed under the Bankruptcy Code, counsel for any of the foregoing, and any other entity as ordered by the court.

LBR 3018-1. BALLOTS – VOTING ON CHAPTER 11 PLAN

(a) **Ballot Summary.** The plan proponent must:

(1) Tabulate the ballots of those accepting or rejecting the plan;

(2) File a ballot summary not later than 14 days before the hearing on the motion for order confirming the plan. The ballot summary must be signed by the plan proponent and must certify to the court the amount and number of allowed claims

of each class voting to accept or reject the plan and the amount of allowed interests of each class voting to accept or reject the plan; and

(3) Make available at the hearing all of the original ballots for inspection and review by the court and any interested party.

(b) **<u>Amended Ballot Summary</u>.** In addition to the requirements set forth in subsection (a) of this rule, the court may order an amended ballot summary to be filed with the original ballots attached.

LBR 3020-1. <u>CHAPTER 11 PLAN CONFIRMATION AND POSTCONFIRMATION REQUIREMENTS</u>

(a) **<u>Payment of Special Charges</u>.** The proposed plan confirmation order must be accompanied by proof of payment of any and all special charges due to the clerk's office. The amount of the charges to be paid may be obtained from the courtroom deputy of the judge hearing the case.

(b) **<u>Postconfirmation Requirements</u>.** After confirmation of a chapter 11 plan, the reorganized debtor must file and serve postconfirmation status reports (on the United States trustee and the 20 largest unsecured creditors) setting forth the following information:

(1) Progress that has been made toward substantial consummation of the confirmed plan;

(2) A schedule listing for each debt and each class of claims; the total amount required to be paid under the plan; the amount required to be paid as of the date of the report; the amount actually paid as of the date of the report; and the deficiency, if any, in required payments;

(3) A schedule of any and all postconfirmation tax liabilities that have accrued or come due and a detailed explanation of payments thereon;

(4) Projections as to the reorganized debtor's, postconfirmation trustee's, or other responsible party's continuing ability to comply with the terms of the plan;

(5) An estimate of the date for plan consummation and application for final decree; and

(6) Any other pertinent information needed to explain the progress toward completion of the confirmed plan. Reporting entities whose equity securities are registered under Section 12(b) of the Securities Exchange Act of 1934 may provide information from their latest 10Q or 10K filing with the S.E.C., if it is responsive to the requirements of this subsection.

(c) **<u>Timing of Postconfirmation Reporting</u>.** Unless otherwise ordered, the first postconfirmation status report must be filed within 120 days of entry of the order confirming the plan. Subsequent reports will be due on the 15th day of the month

following each successive 120-day reporting period until a final decree is entered.

(d) **Effect of Failure to File Postconfirmation Reports.** The failure to file timely postconfirmation status reports is cause for dismissal or conversion to a case under chapter 7 pursuant to 11 U.S.C. § 1112(b).

(e) **Effect of Conversion to Chapter 7.** Upon confirmation of a chapter 11 plan, the debtor, or plan proponent whose plan was confirmed, must lodge a form of confirmation order that includes a provision, consistent with 11 U.S.C. § 1141(b), that, unless otherwise provided for in the plan, if the case is converted to one under chapter 7, the property of the reorganized debtor, or of any liquidation or litigation trust, or of any other successor to the estate under the plan, that has not been distributed under the plan will be vested in the chapter 7 estate, except for property that would have been excluded from the estate if the case had always been one under chapter 7.

LBR 3020-2. POSTCONFIRMATION REQUIREMENTS IN A SUBCHAPTER V CASE

(a) **Applicability.** This LBR only applies to cases proceeding under subchapter V of chapter 11 of the Bankruptcy Code.

(b) **Consensual Plan.** Upon confirmation of a consensual plan, unless the confirmation order provides otherwise, the following rules and procedures apply:

(1) Postconfirmation Reporting. Upon confirmation of a consensual plan, the debtor must file and serve postconfirmation quarterly reports in accordance with LBR 3020-1(b) and (c). If the debtor is removed as debtor in possession, the subchapter V trustee in possession must file and serve postconfirmation quarterly reports, unless the Court orders otherwise.

(2) Substantial Consummation Report. Not later than 14 days after the date of the entry of the order confirming the plan, the debtor must file a report stating whether the plan has been substantially consummated and, if not, providing a projected date when substantial consummation is expected to occur and the steps necessary for substantial consummation to occur.

(3) Extensions of Projected Date of Substantial Consummation. If the projected date for substantial consummation must be extended, the debtor must file a supplemental report specifying the new projected date, the progress made toward consummation of the plan, the steps necessary for substantial consummation to occur, and the reasons for the delay. The supplemental report must be filed and served as soon as possible, but at least not later than 14 days after the previously projected date of substantial consummation.

(4) Notice of Substantial Consummation. Not later than 14 days after the debtor's consensual plan has been substantially consummated, the debtor must file a notice of substantial consummation and serve this notice on the subchapter V trustee, the United States trustee, and the 20 largest unsecured creditors.

(5) Termination of the Subchapter V Trustee's Services. Upon substantial consummation of a consensual plan, the subchapter V trustee's services will terminate automatically, unless otherwise provided in the plan or ordered by the Court.

(c) Nonconsensual Plan . Upon confirmation of a nonconsensual plan, unless the confirmation order provides otherwise, the following rules and procedures apply:

(1) Distributions. The subchapter V trustee must collect plan payments and make distributions to creditors, unless otherwise provided for in the plan or confirmation order.

(2) Postconfirmation Reporting. Upon confirmation of a nonconsensual plan, the subchapter V trustee must file and serve postconfirmation quarterly reports in accordance with LBR 3020-1(b) and (c).

LBR 3022-1. FINAL DECREE AND CLOSING A CHAPTER 11 CASE

(a) Motion for Final Decree. After an estate is fully administered in a chapter 11 reorganization case, a reorganized debtor, chapter 11 trustee, or subchapter V trustee in possession may file a motion for a final decree using the procedure of LBR 9013-1(d) or (o). Notice of the motion must be served upon all parties upon whom the plan was served.

(b) Motion for Order Closing Case on Interim Basis. If a chapter 11 estate is substantially consummated, but not fully administered, the reorganized debtor, chapter 11 trustee, or subchapter V trustee in possession, may file a motion for an order closing case on an interim basis using the procedure of LBR 9013-1(d) or (o).

LBR 3022-2. FULL ADMINISTRATION IN A SUBCHAPTER V CASE

(a) Applicability.

This LBR only applies to cases proceeding under subchapter V of chapter 11 of the Bankruptcy Code.

(b) Consensual Plan.

(1) Subchapter V Final Report and Account. Within 60 days after the final distribution to creditors under a consensual plan, the debtor must file with the Court, and serve upon all parties upon whom the plan was served, a subchapter V final report and account of administration of the estate (UST Form 101-11(V)-FR) ("Subchapter V Final Report and Account"), whereupon the debtor must seek entry of a final decree closing the case.

(2) Final Decree. After the debtor has filed its Subchapter V Final Report and Account, the debtor must file a motion for final decree pursuant to LBR 3022-1(a) supported by a declaration under penalty of perjury showing that: (A) the services of the subchapter V trustee have terminated, (B) the estate has been

fully administered, (C) all adversary proceedings, contested matters and other disputes, including appeals, have been resolved by a final, non-appealable order or dismissed, and (D) there are no remaining matters for which the Court must continue to exercise jurisdiction. The debtor must also lodge a proposed final decree. Nothing herein is intended to prevent the debtor from seeking interim or early closure of the case.

(c) Nonconsensual Plan.

(1) Subchapter V Final Report and Account. Within 60 days after the final distribution to creditors under a nonconsensual plan, the subchapter V trustee must file with the Court, and serve upon all parties upon whom the plan was served, a Subchapter V Final Report and Account of administration of the estate, whereupon the subchapter V trustee must seek entry of a final decree closing the case.

(2) Final Decree. Upon the subchapter V trustee's filing of a Subchapter V Final Report and Account in a case in which the plan is a confirmed nonconsensual plan, the subchapter V trustee must file a motion for final decree pursuant to LBR 3022-1(a) supported by a declaration under penalty of perjury showing that: (A) the estate has been fully administered, (B) all adversary proceedings, contested matters, and other disputes, including appeals, have been resolved by a final, non-appealable order or dismissed, and (C) there are no remaining matters for which the Court must continue to exercise jurisdiction. The subchapter V trustee must also lodge a proposed final decree.

(3) Termination of the Subchapter V Trustee's Services. Upon entry of the final decree, the subchapter V trustee's services will terminate.

LBR 4001-1. STAY OF 11 U.S.C. § 362

(a) General. Except as provided by this rule, the requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for relief from the automatic stay, extension of the stay, imposition of the stay, or confirmation that the stay is terminated or no longer in effect. If the motion is filed in a chapter 13 case, the moving party must also comply with LBR 3015-1(r).

(b) Form Motions and Orders.

(1) Motions. An entity seeking relief from the automatic stay, extension of the stay, imposition of the stay, or confirmation that the stay is terminated or no longer in effect, must file a motion using the court-mandated F 4001-1 series of form motions. The failure to use the mandatory forms may result in the denial of the motion or the imposition of sanctions.

(2) Orders. In addition to the requirement that all orders on § 362 motions comply with LBR 9021-1:

(A) Mandatory Form Orders. Any order granting relief from the automatic stay, extension of the stay, imposition of the stay, or confirming that the stay is terminated or no longer in effect, must be lodged using the court-mandated F 4001-1 series of form orders. The failure to use the mandatory form orders may result in the court not signing or entering the order; and

(B) Motions Settled by Stipulation. Any order granting a motion regarding the stay, as settled by stipulation, must be prepared using the court-mandated F 4001-1 series of form orders and is exempt from the requirements of LBR 9021-1(b)(2). Compliance with the CM/ECF Procedures contained in The Central Guide is required regarding signatures of parties and/or counsel to the stipulated terms.

(c) Motion for Relief from Automatic Stay.

(1) Filing and Service. The motion, notice of hearing, and all supporting documents must be served by the moving party in the time and manner prescribed in LBR 9013-1(d) on the following parties:

(A) Residential Unlawful Detainer Motions. If the motion seeks relief from the stay to proceed with an unlawful detainer action involving a residential property with a month-to-month tenancy, tenancy at will, or a tenancy terminated by an unlawful detainer judgment, the movant must serve only the debtor and debtor's attorney (if any).

(B) Motions Requesting Relief Applicable in Future Cases, Including Under 11 U.S.C. § 362(d)(4). If a motion seeks relief from the stay applicable in future cases (sometimes called "in rem" or "ex parte" relief), the movant must serve the person(s) who executed the documents through which the

movant asserts its interest in the property (sometimes referred to in the mortgage context as the "original borrower", and in the leasehold context, the "original lessee"), in addition to those persons and entities required by LBR 4001-1(c)(1)(C).

(C) Other Relief from Automatic Stay Motions. In all other cases, the movant must serve:

(i) The debtor and debtor's attorney (if any);

(ii) The trustee or interim trustee (if any);

(iii) Any applicable codebtor where relief is sought from the codebtor stay under 11 U.S.C. §§ 1201 or 1301;

(iv) If relief is sought as to property of the estate, the holder of a lien or encumbrance against the subject property that is known to the movant, scheduled by the debtor, or appears in the public record; and

(v) Any other party entitled to notice under FRBP 4001.

(2) Hearing. Unless the court orders otherwise at the time of the hearing, the preliminary hearing under 11 U.S.C. § 362(e) is consolidated with the final hearing under 11 U.S.C. § 362(d).

(3) Continuance by Stipulation. A stipulation by the moving party to continue a hearing under 11 U.S.C. § 362(d) to a later date is deemed a waiver of the applicable portions of 11 U.S.C. § 362(e) until the conclusion of the hearing on such later date. Unless otherwise ordered, an order by the court to continue a hearing under 11 U.S.C. § 362 to a later date is deemed to include an order continuing the stay in effect until the conclusion of the hearing on such later date.

(4) Separate Motion. A motion for relief from the automatic stay must be filed separately from, and not combined in the same document with, any other request for relief, unless otherwise ordered by the court.

(d) Motion for Extension or Imposition of Stay.

(1) A party in interest seeking an extension of the stay under 11 U.S.C. § 362(c)(3)(B) or imposition of the stay under 11 U.S.C. § 362(c)(4)(B) must file a motion and serve the motion, notice of hearing, and supporting documents as provided in subsection (c)(1) of this rule and upon all other parties in interest against whom extension or imposition of the stay is sought.

(2) The motion must be filed promptly after the petition date to be timely considered and, if necessary, accompanied by a separate motion under LBR 9075-1(b) for a hearing on shortened notice.

(e) Motion for Order Confirming Termination of Automatic Stay.

(1) A party in interest requesting an order under 11 U.S.C. § 362(j) confirming termination of the automatic stay must file a motion supported by a declaration containing competent evidence establishing that the stay has terminated or was never in effect under 11 U.S.C. § 362(c).

(2) The motion and supporting declaration must be served as provided in subsection (c)(1) of this rule.

(f) Deposit of Rent under 11 U.S.C. § 362(l).

(1) Any rent deposited with the clerk of the court pursuant to 11 U.S.C. § 362(l)(1)(B) must be in the form of a certified or cashier's check or money order payable to the lessor or landlord in the amount of any rent that would become due during the 30-day period after the filing of the bankruptcy petition.

(2) The rent must be deposited with the clerk of the court at the time the bankruptcy petition is filed. The rent deposit and the bankruptcy petition must be accompanied by a copy of the judgment for possession and Official Form 101A, Initial Statement About an Eviction Judgment Against You.

(3) As the certification to be filed and served pursuant to 11 U.S.C. § 362(l)(2), debtor must use Official Form 101B, Statement About Payment of an Eviction Judgment Against You. This certification must be filed and served within 30 days after the filing of the bankruptcy petition in accordance with 11 U.S.C. § 362(l)(2).

(4) Pursuant to 11 U.S.C. § 362(l)(5)(D), the clerk will transmit the payment to the lessor at the address listed Official Form 101A, Initial Statement About an Eviction Judgment Against You.

(g) Relief from Automatic Stay to Proceed in Another Forum. If the court grants a motion for relief from the automatic stay to proceed in another forum, the prevailing party must promptly file a copy of the entered order in that forum.

(h) Application Confirming Loan Modification Will Not Violate the Stay. An application for order confirming loan modification does not violate the automatic stay must be served on the debtor, debtor's attorney, and applicable lender, and may be ruled on without a hearing pursuant to LBR 9013-1(p).

LBR 4001-2. CASH COLLATERAL AND DEBTOR IN POSSESSION FINANCING

(a) **Use of Mandatory Form for Cash Collateral and/or Debtor in Possession Financing Motions or Stipulations.** Each motion to obtain credit or to approve the use of cash collateral, debtor in possession financing, and/or cash management under 11 U.S.C. §§ 363 or 364, or related stipulation (collectively, "Financing Motion") must be accompanied by mandatory court-approved form F 4001-2.STMT.FINANCE.

(b) **Final Hearing.** Ordinarily, the final hearing on a Financing Motion will be held at least 14 days after the appointment of the creditors' committee contemplated by 11 U.S.C. § 1102.

LBR 4002-1. DUTIES OF DEBTOR AT MEETING OF CREDITORS

(a) **General.** In addition to the requirements of 11 U.S.C. § 521(h) and FRBP 4002, debtors must comply with the following duties at the meeting of creditors held pursuant to 11 U.S.C. § 341(a) and FRBP 2003.

(b) **Chapter 11 Debtors.** A chapter 11 debtor must comply with LBR 2015-2 and/or 2015-3, as applicable.

(c) **Chapter 13 Debtors.** Individuals who file a chapter 13 case must comply with the requirements set forth in LBR 3015-1(c), (e)(3)(C), (k)(1), and (m)(6)(C).

(d) **Joint Debtors.** Individuals who file a case jointly pursuant to 11 U.S.C. § 302 must, upon request, present evidence to support their joint filing status, such as a copy of the marriage license.

LBR 4003-2. LIEN AVOIDANCE

(a) **General.** The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion to avoid a lien or other transfer of property pursuant to 11 U.S.C. § 522(f), except as provided by this rule.

(1) A motion to avoid a lien or other transfer of property under 11 U.S.C. § 522(f) may be brought under either LBR 9013-1(d) or (o).

(2) A motion to sell property free and clear of liens under 11 U.S.C. § 363(h) does not constitute a "proceeding to avoid a lien" within the meaning of this rule.

(b) **Contents of Notice and Motion.**

(1) A creditor whose lien is to be avoided must be identified in the notice and motion. A separate notice and motion must be filed for each lien sought to be avoided.

(2) If the motion seeks to avoid a lien on real property, the motion and proposed order must include the legal description of the real property.

(c) Service.

(1) The motion, notice, and supporting documents must be served on the holder of the lien to be avoided in the same manner as a summons and complaint under FRBP 7004.

(2) The motion, notice, and supporting documents also must be served on any other holder of a lien or encumbrance against the subject property.

(d) Evidence. The motion must be accompanied by a declaration or other competent evidence establishing:

(1) The balance remaining on the creditor's loan;

(2) The fair market value of the subject property;

(3) The identity of any other holder of a lien encumbering the subject property and the amount due and owing on such lien;

(4) The specific statutory authority for the claimed exemption; and

(5) The value or amount claimed exempt.

LBR 4008-1. REAFFIRMATION AGREEMENTS

(a) Form. A reaffirmation agreement must conform to Official Form 2400A/B ALT, Reaffirmation Agreement. If the reaffirmation agreement concerns a secured debt, a complete and legible copy of the security agreement, including the front and back of each page, must be attached.

(b) Reaffirmation without Representation or Certification by Debtor's Attorney. In a case where the debtor is not represented by an attorney, or where the attorney is unwilling or unable to sign Part C: Certification by Debtor's Attorney, the debtor must move for approval of the reaffirmation agreement by the court by completing Part E: Motion for Court Approval of Official Form 2400A/B ALT.

(c) Deadline for Filing. A reaffirmation agreement and a motion for approval of the reaffirmation agreement under 11 U.S.C. § 524 must be filed by the debtor or creditor within 60 days following the conclusion of the first meeting of creditors under 11 U.S.C. § 341(a), unless otherwise ordered by the court.

(d) Hearing and Approval by Court.

(1) Notice of Hearing. The clerk will set a hearing on the motion for approval of the reaffirmation agreement and give notice to the debtor and creditor of the date, time, and place of such hearing if:

(A) The debtor was not represented by an attorney or the attorney representing the debtor was unwilling or unable to sign Part C: Certification by Debtor's Attorney; or

(B) Where a presumption of undue hardship arising under 11 U.S.C. § 524(m)(1) is not rebutted by the debtor to the satisfaction of the court.

(2) Debtor Must Appear. The court will not grant a motion to approve a reaffirmation agreement unless the debtor appears in person at the hearing to respond to questions by the court.

(3) Order. If a hearing is required, the court will prepare and deliver an order either granting or denying the motion for approval of the reaffirmation agreement.

(4) When Hearing Not Required. Under all other circumstances, unless otherwise ordered by the court, court approval is not required in a case where the debtor was represented by an attorney during the negotiation of the reaffirmation agreement.

LBR 5003-2. RECORDS AND FILES

(a) Removal of Records and Files.

(1) Order Required. No records or objects belonging to the files of the court may be taken from the office or custody of the clerk except upon written order of the court.

(2) Form of Receipt. Any person removing records pursuant to this rule must give the clerk a receipt containing the following information:

(A) The name, address, and telephone number of the person removing the records or objects;

(B) An itemized description of the records or objects removed;

(C) The date of removal;

(D) The place in which records or objects will be used or kept; and

(E) The estimated date of return to the clerk of the records or objects.

(3) Exception for Court Staff. The provisions of this rule do not apply to a judge, members of a judge's staff, magistrate judge, court recorder, clerk, clerk's staff, or courtroom deputy requiring records or objects in the exercise of their official duties. Any court officer removing records or objects must provide the clerk with a receipt in the form required by subsection (a)(2) of this rule.

(b) Removal of Contraband.

Contraband of any kind coming into the possession of the clerk must be turned over to an appropriate governmental agency which will destroy or otherwise dispose of the contraband as provided by law. The agency must give the clerk a receipt for the contraband in the form required by subsection (a)(2) of this rule.

(c) Confidential Court Records.

(1) Filing under Seal. Subject to 11 U.S.C. § 107, a document may not be filed under seal without a prior written order of the court. If a filing under seal is requested, a written motion requesting such relief and a proposed order must be presented to the judge in the manner set forth in The Central Guide.

(2) Disclosure of Sealed Documents. No sealed or confidential record of the court maintained by the clerk will be disclosed except upon written order of the court. A party seeking disclosure of sealed or confidential court records must file and serve a motion pursuant to LBR 9013-1(d) or (o). The motion must state with particularity the need for specific information in such records.

LBR 5005-1. FILING DOCUMENTS – REQUIREMENTS

A document delivered for filing to the clerk will be accepted if accompanied by any required fee and signature, except as provided in LBR 1002-1(d)(1) and LBR 1006-1.

LBR 5005-2. FILING DOCUMENTS – NUMBER OF COPIES

(a) **Number of Copies.** For documents that are not electronically filed under the provisions of LBR 5005-4, a list of requirements that specify the minimum number of copies that must be submitted is contained in The Central Guide.

(b) **Conformed Copies.** A copy filed with the court must conform to the original, including either a photocopy of a fully executed signature page, or an unsigned signature page that bears a conformed signature or a notation that the original was signed. A conformed copy must be identical to the original in content, pagination, additions, deletions, interlineations, attachments, exhibits, and tabs.

(c) **Request for Court Conformed Copy.** A maximum of 3 copies will be conformed by the clerk's office to show filing or lodging. Copies to be conformed by the clerk's office may consist of either the entire document or only the first page of the filed document. The clerk's office is not responsible for verifying that any copy presented for conforming is a true and correct copy of the filed document. If the party presenting a document requests the clerk to return a conformed copy by United States mail, an extra copy must be submitted by the party for that purpose, accompanied by a postage-paid, self-addressed envelope.

(d) **Judge's Copy .** A printed copy of any document filed with the court, either electronically or non-electronically, must be marked "Judge's Copy" and served on the judge in chambers in the manner and not later than the deadline set forth in The Central Guide.

(1) The judge's copy must meet the requirements of LBR 9004-1(a). Exhibits to the judge's copy must be tabbed.

(2) If the document is filed electronically, a judge's copy must be accompanied by a copy of the NEF confirming the filing of the original document.

(3) The Proof of Service of Document must indicate the method of service of a judge's copy.

(4) Exceptions to serving a judge's copy may be found in The Central Guide, Section 3-02.

LBR 5005-4. ELECTRONIC FILING

(a) Mandatory Electronic Filing. Except as provided in LBR 5003-2(c) and subsection (c) of this rule, all documents submitted in any case or proceeding must be filed electronically, signed or verified by electronic means in compliance with the court's CM/ECF Procedures contained in The Central Guide.

(b) CM/ECF Procedures Control. In the event of a conflict between these rules and the CM/ECF Procedures, the current version of the CM/ECF Procedures will control.

(c) Exceptions to Mandatory Electronic Filing Requirement.

(1) Pro Se Exception. A person who is not represented by an attorney may file and serve documents non-electronically.

(2) Limited Exception for Attorneys

(A) An attorney who files documents in fewer than 5 bankruptcy cases or adversary proceedings in a single calendar year may file and serve documents non-electronically.

(B) An attorney who files non-electronically documents capable of being filed electronically in 5 or more bankruptcy cases or adversary proceedings in a single calendar year *must thereafter* file documents electronically through the court's CM/ECF system.

(C) The court reserves the right in its sole discretion to revoke this limited exception at any time upon notice to the attorney.

LBR 5010-1. REOPENING CASES

(a) Motion. A motion to reopen a closed bankruptcy case must be supported by a declaration establishing a reason or "cause" to reopen. The motion must not contain a request for any other relief.

(b) Separate Motion or Adversary Proceeding.

(1) A request for any relief other than the reopening of a case, including relief based upon the grounds for reopening the case, must be made in a separate motion or adversary proceeding, which may be filed concurrently with the motion to reopen.

(2) This subsection does not apply to a motion to reopen a case solely for the purpose of seeking an extension of time to file Official Form 423, Certification About a Financial Management Course.

(c) **Notice.** The movant must give notice of the motion to any former trustee in the case and the United States trustee.

(d) **Fee .** If a fee is required, the movant must pay the fee upon the filing of the motion to reopen, unless otherwise ordered by the court.

(e) **Motion May Be Considered without a Hearing. .** A motion to reopen may be ruled on without a hearing pursuant to LBR 9013-1(q). The movant must not calendar a hearing date nor will a hearing be held on the motion, unless otherwise ordered by the court.

(f) **Assignment.** The motion will be assigned to the judge to whom the case was last assigned, if still in office; otherwise, the motion will be assigned at random by the clerk to a judge to hear and rule upon the request.

(g) **Closing of Case.** If no motion or adversary proceeding is pending 30 days after the case is reopened and if no trustee has been ordered appointed, the case may be closed without further notice.

LBR 5011-1. WITHDRAWAL OF REFERENCE

(a) **General.** Pursuant to 28 U.S.C. § 157(a), the district court refers to the bankruptcy court for this district all cases under title 11 and all proceedings under title 11 or arising in or related to a case under title 11.

(b) **Procedure .** A motion to withdraw the reference of a case or proceeding under 28 U.S.C. § 157(d) must be filed with the clerk of the district court. The motion must comply with Rule 9 of Chapter IV, Local Civil Rules.

LBR 5073-1. PHOTOGRAPHY, RECORDING DEVICES, AND BROADCASTING

(a) **Prohibition of Broadcasting, Television, and Photography.** Unless otherwise ordered by the court, between 7:00 a.m. and 7:00 p.m., Monday through Friday, and at all other times when the court is in session, the use of any form, means, or manner of radio or television broadcasting and the taking or making of photographs, motion pictures, video, or sound recordings is prohibited in:

(1) Any and all courtrooms occupied by any judge;

(2) Any and all chambers assigned to any judge;

(3) Any and all areas used by the clerk and court staff;

(4) Any garage or parking facility reserved for the judges or their staff; and

(5) All hallways and public areas adjacent to the above-specified locations.

(b) **Exceptions.** This rule does not prohibit:

(1) Recordings made by official court recorders in the performance of their official duties. No other use may be made of an official recording of a court proceeding without an express, written order of the court;

(2) The taking of photographs, when specifically authorized in writing, at ceremonial or non-judicial functions in the chambers of a judge of this court;

(3) The videotaping or other electronic recording of depositions for trial purposes, nor the preparation and perpetuation of testimony taken by, or under the direction of, a judge of this court or a visiting judge. No part of such videotape or other electronic recording may be used without an express, written order of the court; or

(4) The possession of video or sound recording, photographic, radio, or television broadcasting equipment. Any equipment taken into or through the areas enumerated in this rule is subject to such security regulations as may be adopted from time to time by the court.

(c) **Enforcement of Rule.** The United States Marshal, the General Services Administration police, and the security force contracted for service by the court enforce the provisions of this rule. A violation of this rule constitutes contempt of court.

LBR 5075-1. MOTIONS FOR ADMINISTRATIVE ORDERS PURSUANT TO 28 U.S.C. § 156(c)

(a) **General.** This rule applies to motions by which a party in interest seeks an order from the bankruptcy court approving employment of persons or entities to perform certain duties of the clerk's office, the debtor, or the debtor in possession such as (1) processing proofs of claim and maintaining the claims register; (2) serving notices; (3) scanning documents; or (4) providing photocopies of documents filed in the case (collectively, "administrative order").

(b) **Procedure .** A motion for administrative order must include a completed declaration on court-mandated form F 5075-1.1.DEC.ADMIN.PROCEDURES, Declaration to be Filed with Motion Establishing Administrative Procedures Re 28 U.S.C. § 156(c), with the completed Mega Case Procedures Checklist attached thereto. A copy of the motion, including the declaration and checklist, must also be provided to the clerk's office at the time the motion is filed. Movant's counsel must consult with the clerk's office in completing the checklist to the satisfaction of the clerk's office. Unless the judge to whom the case is assigned orders otherwise, any such motion that is not accompanied by the completed checklist may be denied by the court and any hearing thereon previously scheduled may be vacated.

LBR 5095-1. INVESTMENT OF ESTATE FUNDS

(a) Notice.

(1) Service. The trustee or debtor in possession must give not less than 14 days written notice of a proposed investment of bankruptcy estate funds in a Designated Fund to the United States trustee, the debtor (if a trustee has been appointed), the creditors' committee or the 20 largest unsecured creditors if no committee has been appointed, any other committee appointed in the case, counsel for any of the foregoing, and any other party in interest entitled to notice under FRBP 2002, unless the court for cause shown sets a hearing on shortened notice or otherwise modifies or limits notice pursuant to a motion under LBR 9075-1.

(2) Time Period for Response. The notice must state that any objection or request for hearing must be filed and served not more than 14 days after service of the notice, unless the notice specifies a longer period, or unless otherwise ordered by the court.

(3) When Order Not Needed. If an objection and request for hearing is not filed and served timely, the trustee or debtor in possession may proceed with the investment. An order is not required nor will an order be entered under this rule.

(b) Objection and Request for Hearing. If a timely objection and request for hearing is filed and served, the trustee or debtor in possession must comply with LBR 9013-1(o)(4).

(c) Designated Fund. For purposes of this rule, a "Designated Fund" is an open-end management investment company registered under the Investment Company Act of 1940 and regulated as a "money market fund" pursuant to Rule 2a-7 under the Investment Company Act of 1940, that:

(1) Invests exclusively in United States Treasury bills and United States Treasury Notes owned directly or through repurchase agreements;

(2) Has received the highest money market fund rating from a nationally recognized statistical rating organization, such as Standard & Poor's or Moody's;

(3) Has agreed to redeem fund shares in cash, with payment being made no later than the business day following a redemption request by a shareholder, except in the event of an unscheduled closing of Federal Reserve Banks or the New York Stock Exchange; and

(4) Has adopted a policy that it will notify its shareholders 60 days prior to any change in its investment and redemption policies under subsections (c)(1) and (3) of this rule.

LBR 6004-1. SALE, USE, OR LEASE OF ESTATE PROPERTY

(a) **General .** The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for an order establishing procedures for the sale of estate assets and a motion seeking authorization to sell, use or lease estate property, except as provided by this rule.

(b) **Motion for Order Establishing Procedures for the Sale of Estate Property.**

(1) Timing of Hearing. A hearing on a Motion to Establish Procedures for the Sale of the Estate's Assets ("Sale Procedure Motion") may be scheduled on not less than 7 days' notice to applicable parties, unless an order setting hearing on shortened notice is obtained under LBR 9075-1(b).

(2) Contents of Notice. The notice must describe the proposed bidding procedures and include a copy of the proposed purchase agreement. If the purchase agreement is not available, the moving party must describe the terms of the sale proposed, when a copy of the actual agreement will be filed with the court, and from whom it may be obtained. The notice must describe the marketing efforts undertaken and the anticipated marketing plan, or explain why no marketing is required. The notice must provide that opposition is due on or before 1 day prior to the hearing, unless otherwise ordered by the court.

(3) Service of the Notice and Motion. The moving party must serve the motion and notice of the motion and hearing by personal delivery, messenger, telephone, fax, or email to the parties to whom notice of the motion is required to be given by the FRBP or by these rules, any other party that is likely to be adversely affected by the granting of the motion, and the United States trustee. The notice of hearing must state that any response in opposition to the motion must be filed and served at least 1 day prior to the hearing, unless otherwise ordered by the court.

(4) Opposition. Any opposition and accompanying memorandum of points and authorities and declarations must be filed and served at least 1 day prior to the hearing, unless otherwise ordered by the court. Documents filed in opposition to the motion must be served by personal delivery, messenger, fax, or email. A judge's copy of the opposition must be served on the judge in chambers in accordance with LBR 5005-2(d).

(5) Scheduling Hearing on the Sale. A date and time for a hearing on the motion to approve the sale itself may be obtained at or prior to the hearing on the Sale Procedure Motion. The hearing must be scheduled, if practicable, no more than 30 days following the hearing on the Sale Procedure Motion.

(6) Break-up Fees. If a break-up fee or other form of overbid protection is requested in the Sale Procedure Motion, the request must be supported by evidence establishing:

(A) That such a fee is likely to enhance the ultimate sale price; and

(B) The reasonableness of the fee.

(c) Motion for Order Authorizing the Sale of Estate Property.

(1) General. Unless otherwise ordered by the court and subject to FRBP 6003(b), an order authorizing the sale of estate property other than in the ordinary course of business may be obtained upon motion of the trustee, debtor in possession, or subchapter V trustee in possession in a chapter 7, 11, or 12 case after notice and a hearing pursuant to LBR 9013-1(d) or after notice of opportunity for hearing under LBR 9013-1(o), *except* the following which must be set for hearing pursuant to LBR 9013-1(d):

(A) A sale of all or substantially all of the debtor's assets in a case under chapter 11 or 12; or

(B) A sale of property that is either subject to overbid or concerning which the trustee, debtor in possession, or subchapter V trustee in possession has been contacted by potential over-bidders.

(2) Motion.

(A) A motion for an order authorizing the sale of estate property, other than in the ordinary course of business, must be supported by a declaration of the movant establishing the value of the property and that the terms and conditions of the proposed sale, including the price and all contingencies, are in the best interest of the estate.

(B) If the proposed sale is not subject to overbid, the declaration must include a certification that the movant has not been contacted by any potential over-bidder and that, in the movant's business judgment, there are no viable alternative purchasers.

(C) A memorandum of points and authorities is not required but may be filed in support of the motion.

(3) Notice of Hearing. If the motion is set for hearing pursuant to LBR 9013-1(d), the notice must state:

(A) The date, time, and place of the hearing on the proposed sale;

(B) The name and address of the proposed buyer;

(C) A description of the property to be sold;

(D) The terms and conditions of the proposed sale, including the price and all contingencies;

(E) Whether the proposed sale is free and clear of liens, claims or interests, or subject to them, and a description of all such liens, claims, or interests;

(F) Whether the proposed sale is subject to higher and better bids;

(G) The consideration to be received by the estate, including estimated commissions, fees, and other costs of sale;

(H) If authorization is sought to pay a commission, the identity of the auctioneer, broker, or sales agent and the amount or percentage of the proposed commission to be paid;

(I) A description of the estimated or possible tax consequences to the estate, if known, and how any tax liability generated by the sale of the property will be paid; and

(J) The date by which an objection must be filed and served.

(4) Notice of Opportunity for Hearing. If authorization is sought pursuant to LBR 9013-1(o), the provisions of LBR 9013-1(o) must be complied with, and the notice also must include the information required by subsection (c)(3)(B) through (I) of this rule and state:

(A) That a written objection to the proposed sale, together with a request for hearing, must be filed and served pursuant to LBR 9013-1(o) not later than 14 days from the date of service of the notice, unless the notice period is shortened by order of the court; and

(B) That in the absence of an objection, an order may be entered authorizing the sale of the property without further notice or hearing.

(d) Notice of Intent to Sell, Use, or Lease Estate Property (Optional Procedure).

(1) Scope of Rule. A trustee, debtor in possession, or subchapter V trustee in possession may sell, use or lease property of the estate in a chapter 7, 11, or 12 case, other than in the ordinary course of business, under 11 U.S.C. § 363(b)(1) upon notice, *except* the following which must be brought by motion and set for hearing pursuant to LBR 9013-1(d):

(A) A sale of all or substantially all of the debtor's assets in a case under chapter 11 or 12; or

(B) A sale of property that is either subject to overbid or concerning which the trustee, debtor in possession, or subchapter V trustee in possession has been contacted by potential over-bidders.

(2) Notice.

(A) The trustee, debtor in possession, or subchapter V trustee in possession must give not less than 14 days written notice by mail to creditors and interested parties who are entitled to notice, unless the court for cause shown sets a hearing on shortened notice or otherwise modifies or limits notice pursuant to a motion under LBR 9075-1.

(B) The notice must comply with subsection (c)(3)(B) through (I) of this rule and include a certification that the trustee, debtor in possession, or

subchapter V trustee in possession has not been contacted by any potential over-bidder and that, in the trustee's, debtor in possession's, or subchapter V trustee in possession's business judgment, there are no viable alternative purchasers.

(C) The notice must state that any objection and request for hearing must be filed and served not more than 14 days after service of the notice, unless the notice specifies a longer period or unless otherwise ordered by the court, and that in the absence of an objection the property may be sold without further notice.

(D) If an objection and request for hearing is not filed and served timely, the trustee, debtor in possession, or subchapter V trustee in possession may take the proposed action on the date specified in the notice of intent. An order is not required nor will an order be entered under this subsection.

(3) Objection and Request for Hearing. If a timely objection and request for hearing is filed and served, the trustee, debtor in possession, or subchapter V trustee in possession must comply with LBR 9013-1(o)(4).

(e) Sale of Publicly Traded Assets. If the property consists of assets sold in public markets whose prices are published on national or regional exchanges (e.g., securities, bonds, commodities, or precious metals), the trustee, debtor in possession, or subchapter V trustee in possession may sell such assets in a market transaction after providing not less than 14 days written notice by mail to such creditors and interested parties who are entitled to notice, unless the court for cause sets a hearing on shortened notice or otherwise modifies or limits notice pursuant to a motion under LBR 9075-1.

(1) The notice must identify the asset, the market through which the asset is to be sold, and the published price on the date of the notice.

(2) If a commission is to be paid to a sales agent, the notice must disclose the name and address of the sales agent and the amount of the commission to be paid on account of the sale.

(3) The notice must also state that any objection and request for hearing must be filed and served not more than 14 days after service of the notice, unless the notice specifies a longer period or unless otherwise ordered by the court, and that in the absence of an objection the property may be sold without further notice.

(4) If an objection and request for hearing is not filed and served timely, the trustee, debtor in possession, or subchapter V trustee in possession may proceed with the sale in accordance with the notice. An order is not required nor will an order be entered under this subsection.

(5) If a timely objection and request for hearing is filed and served, the trustee, debtor in possession, or subchapter V trustee in possession must comply with LBR 9013-1(o)(4).

(6) The trustee, debtor in possession, or subchapter V trustee in possession need not file an employment application on behalf of a sales agent registered with the Security Investors Protection Corporation, but the sales agent must execute a declaration of disinterestedness which must be filed by the trustee, debtor in possession, or subchapter V trustee in possession with the notice.

(f) **Publication of Notice of Sale of Estate Property.** Whenever the trustee, debtor in possession, or subchapter V trustee in possession is required to give notice of a sale or of a motion to sell property of the estate pursuant to FRBP 6004 and 2002(c), an additional copy of the notice and court-approved form F 6004-2.NOTICE.SALE, Notice of Sale of Estate Property must be submitted to the clerk at the time of filing for purposes of publication by the clerk on the court's website.

(g) **Report of Sale.** Unless otherwise ordered by the court, the report of sale required by FRBP 6004(f)(1) must be filed and served not later than 21 days after the date of the sale of any property not in the ordinary course of business.

(h) **Disbursement of Sale Proceeds.** Unless otherwise ordered by the court, all proceeds of a sale must be paid directly to any appointed trustee, the debtor in possession, or subchapter V trustee in possession. A disbursement of proceeds must not be made without a specific order of the court authorizing the disbursement, except for payment to secured creditors, payment to a debtor of exempt proceeds, and payment for expenses of sale. Proceeds may be disbursed to pay auctioneer's fees and brokers' commissions without additional order of the court if payment is consistent with the terms of the order approving the sale or authorizing the employment of the auctioneer or broker.

(i) **Chapter 13 Cases.** A motion to sell or refinance property in a chapter 13 case must be filed pursuant to LBR 3015-1(p).

LBR 6007-1. ABANDONMENT OF PROPERTY OF THE ESTATE

(a) **Absence of Objection and Request for Hearing on Notice of Intent to Abandon.**

(1) When a notice of proposed abandonment is filed per FRBP 6007(a) and served per LBR 9013-1(o), if no timely objection and request for hearing is filed and served, the property is deemed abandoned without further order of the court.

(2) If an entity desires an order of the court authorizing or directing, and confirming, the case trustee's or debtor in possession's abandonment of the property, and the notice of proposed abandonment was supported by a declaration that addresses the elements of 11 U.S.C. § 554, that entity may lodge a proposed form of order with the court in accordance with the procedure set forth in LBR 9013-1(o)(3).

(b) **Objection and Request for Hearing on Notice of Intent to Abandon.** If a timely objection and request for hearing is filed and served, the party requesting the

abandonment must, within 14 days from the date of service of such objection, file a reply under LBR 9013-1(g) and a notice of hearing pursuant to LBR 9013-1(c) and set a hearing on at least 14 days' notice to each objecting party and to the United States trustee.

LBR 7003-1. ADVERSARY PROCEEDING COVER SHEET

A complaint, filed non-electronically, must be accompanied by an Official Form 1040, Adversary Proceeding Cover Sheet, completed and signed by the attorney or party filing the complaint. The form must contain the name, address, and telephone number of each party to the adversary proceeding, together with the name, address, and telephone number of each party's attorney, if known.

LBR 7004-1. ISSUANCE AND SERVICE OF SUMMONS AND NOTICE OF STATUS CONFERENCE

(a) Issuance.

(1) Adversary Proceeding.

(A) Original Summons. After a complaint is filed pursuant to FRBP 7003, the clerk will issue and file a Summons and Notice of Status Conference, whether the complaint is filed electronically or non-electronically.

(B) Another Summons. Any request that the clerk issue and file another Summons and Notice of Status Conference must be made by filing and serving a request pursuant to LBR 9013-1(p) and using the court approved form.

(i) Original Summons Not Timely Served. A plaintiff may request another summons ("alias summons") pursuant to FRBP 7004(e) if a plaintiff is unable to timely serve a summons, and still wishes to serve a complaint on one or more parties.

(ii) Additional Party Added or Joined. A party may request another summons if an additional party is to be added or joined by way of any procedure authorizing such addition or joinder, including a third party complaint.

(2) Involuntary Petition. The attorney or party must prepare a Summons and Notice of Status Conference for issuance by the clerk, using court-mandated form F 1010-1.SUMMONS.INVOL for involuntary petitions. The summons must be presented concurrently with the filing of an involuntary petition pursuant to 11 U.S.C. § 303.

(b) Manner of Service. A summons must be served in the manner authorized in FRBP 7004. If a summons or any document is served by mail, the mailing address must include the zip code. The notice required by FRBP 7026 and LBR 7026-1 must be served with the summons and complaint.

LBR 7004-2. LIMITATIONS ON SERVICE BY MARSHAL

(a) **General**. Except as otherwise provided by order of the court or when required by the treaties or statutes of the United States, civil process on behalf of a non-governmental party must not be presented to the United States Marshal for service.

(b) **Exception.** Upon request by the government, civil process on behalf of the United States government or an officer or agency thereof may be made by the United States Marshal.

LBR 7008-1. CORE/NON-CORE DESIGNATION

In all adversary proceedings, the statements required by FRBP 7008 and 7012(b) must be plainly stated in the first numbered paragraph of the document.

LBR 7015-1. AMENDED AND SUPPLEMENTAL PLEADINGS

(a) **Proposed Amendment.** A copy of the proposed amended pleading must be attached as an exhibit to any notice of motion or stipulation to amend a pleading.

(b) **Form.** Every amended pleading filed as a matter of right or allowed by order of the court must be complete, including exhibits. The amended pleading must not incorporate by reference any part of the prior superseded pleading.

LBR 7016-1. STATUS CONFERENCE, PRETRIAL, AND TRIAL PROCEDURE

(a) **Status Conference.** In any adversary proceeding, the clerk will include in a summons, notice of the date and time of the status conference.

(1) Who Must Appear. Each party appearing at any status conference must be represented by either the attorney (or party, if not represented by counsel) who is responsible for trying the case or the attorney who is responsible for preparing the case for trial.

(2) Contents of Joint Status Report. Unless otherwise ordered by the court, at least 14 days before the date set for each status conference the parties are required to file a joint status report using mandatory court form F 7016-1.STATUS.REPORT (and F 7016-1.STATUS.REPORT.ATTACH, if applicable).

(3) Unilateral Status Report. If any party fails to cooperate in the preparation of a joint status report and a response has been filed to the complaint, each party must file a unilateral status report not less than 7 days before the date set for each status conference, unless otherwise ordered by the court. The unilateral status report must contain a declaration setting forth the attempts made by the party to contact or obtain the cooperation of the non-complying party. The format of the unilateral status report must substantially comply with mandatory court form F 7016-1.STATUS.REPORT.

(4) Scheduling Order. Unless otherwise ordered by the court, within 7 days after the status conference the plaintiff must lodge, in accordance with LBR 9021-1(b), a proposed scheduling order setting forth the following:

(A) Deadline to join other parties and to amend the pleadings;

(B) Deadline for all discovery to be completed, including the date by which all responses to discovery requests are due;

(C) Deadline to file any pretrial motions and/or a pretrial stipulation;

(D) Any dates set for further status conferences, a final pretrial conference, and the trial;

(E) Any other appropriate matter; and

(F) Proof of service on all opposing counsel (or parties, if not represented by counsel), of a notice of lodgment.

(5) Stipulation for Extension of Deadlines in Scheduling Order. A stipulation for extension of the deadlines set forth in a previously entered scheduling order must contain facts establishing cause for the requested extension and be filed in accordance with LBR 9021-1(b)(2) and LBR 9071-1.

(b) Pretrial Stipulation and Order.

(1) When Required.

(A) In any adversary proceeding, unless otherwise ordered by the court (or if ordered in a contested matter), attorneys for the parties (or parties, if not represented by counsel) must prepare a written pretrial stipulation approved by counsel for all parties.

(B) Unless otherwise ordered by the court, the pretrial stipulation must be filed or lodged (depending upon the procedures of the presiding judge) and served not less than 14 days before the date set for the pretrial conference (if one is ordered) or trial.

(C) Unless otherwise ordered by the court, all parties and/or attorneys for the parties must meet and confer at least 28 days before the date set for pretrial conference (if one is ordered) or trial, for the purpose of preparing the pretrial stipulation.

(2) Contents of Pretrial Stipulation. Unless the court orders otherwise, a pretrial stipulation must include the following statements in the following sequence:

(A) "The following facts are admitted and require no proof:" (Set forth a concise statement of each.)

(B) "The following issues of fact, and no others, remain to be litigated:" (Set forth a concise statement of each.)

(C) "The following issues of law, and no others, remain to be litigated:" (Set forth a concise statement of each.)

(D) "Attached is a list of exhibits intended to be offered at the trial by each party, other than exhibits to be used for impeachment only. The parties have exchanged copies of all exhibits." (Attach a list of exhibits in the sequence to be offered, with a description of each, sufficient for identification, and as to each state whether or not there is objection to its admissibility in evidence and the nature thereof.) If deposition testimony is to be offered as part of the evidence, the offering party must comply with LBR 7030-1.

(E) "The parties have exchanged a list of witnesses to be called at trial." The parties must exchange a list of names and addresses of witnesses, including expert witnesses, to be called at trial other than those contemplated to be used for impeachment or rebuttal. The lists of witnesses must be attached to the pretrial stipulation together with a concise summary of the subject of their proposed testimony. If an expert witness is to be called at trial, the parties must exchange short narrative statements of the qualifications of the expert and the testimony expected to be elicited at trial. If the expert to be called at trial has prepared a report, the report must be exchanged as well.

(F) "Other matters that might affect the trial such as anticipated motions in limine, motions to withdraw reference due to timely jury trial demand pursuant to LBR 9015-2, or other pretrial motions."

(G) "All discovery is complete."

(H) "The parties are ready for trial."

(I) "The estimated length of trial is ______________________."

(J) "The foregoing admissions have been made by the parties, and the parties have specified the foregoing issues of fact and law remaining to be litigated. Therefore, this order supersedes the pleadings and governs the course of trial of this cause, unless modified to prevent manifest injustice."

(3) Order on Pretrial Stipulation. To determine if a proposed pretrial stipulation must be filed, or if it must be lodged, consult the presiding judge's webpage on the court's website, www.cacb.uscourts.gov.

(A) Filing the Pretrial Stipulation. If the presiding judge's instructions are to file the pretrial stipulation, after the court rules on whether to approve or deny the pretrial stipulation, lodge an order approving or denying the pretrial stipulation according to the LOU Procedures found in The Central Guide.

(B) Lodging the Pretrial Stipulation. If the presiding judge's instructions are to lodge the pretrial stipulation, lodge the pretrial stipulation according to the LOU Procedures found in The Central Guide.

(c) Plaintiff's Duty.

(1) It is plaintiff's duty to prepare and sign a proposed pretrial stipulation that is complete in all respects except for other parties' lists of exhibits and witnesses.

(2) Unless otherwise ordered by the court, plaintiff must serve the proposed pretrial stipulation in such manner so that it will actually be received by the office of counsel for all other parties (or parties, if not represented by counsel) not later than 4:00 p.m. on the 7th day prior to the last day for filing or lodging (depending upon the presiding judge's procedures) the proposed pretrial stipulation.

(d) Duty of Parties Other Than Plaintiff. Each other party must, within 3 days following receipt of plaintiff's proposed pretrial stipulation, take the following action:

(1) Agreement with Form of Proposed Stipulation. If plaintiff's proposed pretrial stipulation is satisfactory, attach that party's list of exhibits and witnesses to the pretrial stipulation, indicate approval of the proposed pretrial stipulation by signature, file or lodge it (depending upon the presiding judge's procedures) in time to be received within the time prescribed in subsection (b)(1) of this rule, and serve all other parties with a completed copy of the pretrial stipulation; or

(2) Disagreement with Form of Proposed Stipulation. If plaintiff's proposed stipulation is unsatisfactory:

(A) Immediately contact plaintiff in a good faith effort to achieve a joint proposed pretrial stipulation; and

(B) If such effort is unsuccessful, prepare a separate proposed pretrial stipulation and file or lodge it (depending upon the presiding judge's procedures), together with plaintiff's proposed pretrial stipulation and a declaration of that party setting forth the efforts made to comply with subsection (d)(2)(A) of this rule. The separate proposed pretrial stipulation and declaration must be filed or lodged (depending upon the presiding judge's procedures) and served in such a manner that they will actually be received by the court and the plaintiff all within the time set forth in subsection (b)(1) of this rule.

(e) Non-receipt of Proposed Pretrial Stipulation.

(1) Plaintiff. A plaintiff who has complied with subsection (c) of this rule, and does not receive a timely response from the other parties, must file or lodge (depending upon the presiding judge's procedures) and serve a proposed pretrial stipulation at least 14 days before the pretrial conference (if one is ordered) or trial. At the same time, plaintiff must file and serve a declaration asserting the failure of the other parties and/or counsel for the parties to respond.

(2) Other Parties. Any party other than plaintiff who has not received plaintiff's proposed pretrial stipulation within the time limits set forth in subsection (c) of this rule must prepare, file, and serve at least 14 days prior to the trial or pretrial conference, if one is ordered, a declaration attesting to plaintiff's failure to prepare and serve a proposed pretrial stipulation in a timely manner.

(f) **Sanctions for Failure to Comply with Rule.** In addition to the sanctions authorized by F.R.Civ.P. 16(f), if a status conference statement or a joint proposed pretrial stipulation is not filed or lodged within the times set forth in subsections (a), (b), or (e), respectively, of this rule, the court may order one or more of the following:

(1) A continuance of the trial date, if no prejudice is involved to the party who is not at fault;

(2) Entry of a pretrial order based conforming party's proposed description of the facts and law;

(3) An award of monetary sanctions including attorneys' fees against the party at fault and/or counsel, payable to the party not at fault; and/or

(4) An award of non-monetary sanctions against the party at fault including entry of judgment of dismissal or the entry of an order striking the answer and entering a default.

(g) **Failure to Appear at Hearing or Prepare for Trial.** The failure of a party's counsel (or the party, if not represented by counsel) to appear before the court at the status conference or pretrial conference, or to complete the necessary preparations therefor, or to appear at or to be prepared for trial may be considered an abandonment or failure to prosecute or defend diligently, and judgment may be entered against the defaulting party either with respect to a specific issue or as to the entire proceeding, or the proceeding may be dismissed.

LBR 7026-1. DISCOVERY

(a) **General.** Compliance with FRBP 7026 and this rule is required in all adversary proceedings.

(1) Notice. The plaintiff must serve with the summons and complaint a notice that compliance with FRBP 7026 and this rule is required.

(2) Proof of Service. The plaintiff must file a proof of service of this notice together with the proof of service of the summons and complaint.

(b) **Discovery Conference and Disclosures.**

(1) Conference of Parties. Unless all defendants default, the parties must conduct the meeting and exchange the information required by FRBP 7026 within the time limits set forth therein. Unless otherwise ordered, the initial status conference

constitutes the "scheduling conference" referred to in FRCP 26(f)(1) (incorporated by FRBP 7026).

(2) Joint Status Report. Within 7 days after such meeting, the parties must prepare a joint status report containing the information set forth in LBR 7016-1(a)(2). The joint status report will serve as the written report of the meeting required by FRBP 7026.

(c) Failure to Make Disclosures or Cooperate in Discovery.

(1) General. Unless excused from complying with this rule by order of the court for good cause shown, a party must seek to resolve any dispute arising under FRBP 7026-7037 or FRBP 2004 in accordance with this rule.

(2) Meeting of Parties. Prior to the filing of any motion relating to discovery, the parties must meet in person or by telephone in a good faith effort to resolve a discovery dispute. It is the responsibility of the moving party to arrange the conference. Unless altered by agreement of the parties or by order of the court for cause shown, the opposing party must meet with the moving party within 7 days of service upon the opposing party of a letter requesting such meeting and specifying the terms of the discovery order to be sought.

(3) Moving Papers. If the parties are unable to resolve the dispute, the party seeking discovery must file and serve a notice of motion together with a written stipulation by the parties.

(A) The stipulation must be contained in 1 document and must identify, separately and with particularity, each disputed issue that remains to be determined at the hearing and the contentions and points and authorities of each party as to each issue.

(B) The stipulation must not simply refer the court to the document containing the discovery request forming the basis of the dispute. For example, if the sufficiency of an answer to an interrogatory is in issue, the stipulation must contain, verbatim, both the interrogatory and the allegedly insufficient answer, followed by each party's contentions, separately stated.

(C) In the absence of such stipulation or a declaration of a party of noncooperation by the opposing party, the court will not consider the discovery motion.

(4) Cooperation of Parties; Sanctions. The failure of any party either to cooperate in this procedure, to attend the meeting of parties, or to provide the moving party the information necessary to prepare the stipulation required by this rule within 7 days of the meeting of parties will result in the imposition of sanctions, including the sanctions authorized by FRBP 7037 and LBR 9011-3.

(5) Contempt. LBR 9020-1 governing contempt proceedings applies to a discovery motion to compel a non-party to comply with a deposition subpoena for testimony and/or documents under FRBP 7030 and 7034.

LBR 7026-2. DISCOVERY DOCUMENTS – RETENTION, FILING, AND COPIES

(a) Retention by Propounding Party. The following discovery documents and proof of service thereof must not be filed with the clerk until there is a proceeding in which the document or proof of service is in issue:

(1) Transcripts of depositions upon oral examination;
(2) Transcripts of depositions upon written questions;
(3) Interrogatories;
(4) Answers or objections to interrogatories;
(5) Requests for the production of documents or to inspect tangible things;
(6) Responses or objections to requests for the production of documents or to inspect tangible things;
(7) Requests for admission;
(8) Responses or objections to requests for admission;
(9) Notices of Deposition, unless filing is required in order to obtain issuance of a subpoena in another district; and
(10) Subpoena or Subpoena Duces Tecum.

(b) Period of Retention for Discovery Documents. Discovery documents must be held by the attorney for the propounding party pending use pursuant to this rule for the period specified in LBR 9070-1(b) for the retention of exhibits, unless otherwise ordered by the court.

(c) Filing of Discovery Documents.

(1) When required in a proceeding, only that part of the document that is in issue must be filed with the court.

(2) When filed, discovery documents must be submitted with a notice of filing that identifies the date, time, and place of the hearing or trial in which it is to be offered.

(3) Original deposition transcripts are treated as trial exhibits and must be delivered to the judge for use at the hearing or trial. The original deposition transcript and a copy must be lodged with the clerk pursuant to LBR 7030-1(b).

(d) Copies of Discovery Documents.

(1) Unless an applicable protective order otherwise provides, any entity may obtain a copy of any discovery document described in subsection (a) of this rule by making a written request therefor to the clerk and paying duplication costs.

(2) The clerk will give notice of the request to all parties in the case or proceeding, and the party holding the original of the requested discovery document must lodge the original or an authenticated copy with the clerk within 14 days after service of the clerk's notice.

(3) Promptly after duplication, the clerk will return the original to the party who provided it.

LBR 7026-3. INTERROGATORIES AND REQUESTS FOR ADMISSION

(a) Form.

(1) Interrogatories and requests for admission must comply with the form requirements of LBR 9004-1.

(2) Interrogatories and requests for admissions must be numbered sequentially without repeating the numbers used on any prior set of interrogatories or requests for admission propounded by that party.

(b) Number of Interrogatories Permitted. A party must not, without leave of the court and for good cause shown, serve more than 25 interrogatories on any other party. Each subdivision of an interrogatory is considered a separate interrogatory. A motion for leave to serve additional interrogatories may be made pursuant to LBR 9013-1(d) or (o).

(c) Answers and Objections. The party answering or objecting to interrogatories or requests for admission must quote each interrogatory or request in full immediately preceding the statement of any answer or objection thereto.

(d) Retention by Propounding Party. The original of the interrogatories or requests for admission must be held by the attorney propounding the interrogatories or requests pursuant to LBR 7026-2 pending use or further order of the court.

LBR 7030-1. DEPOSITIONS

(a) Custody of Original Transcript.

(1) The original transcript of a deposition must be sent to the attorney noticing the deposition after signing and correction or waiver of the same unless otherwise stipulated to on the record at the deposition.

(2) It is the duty of the attorney noticing the deposition to obtain from the reporter the original transcript thereof in a sealed envelope and to safely retain the same under conditions suitable to protect it from tampering, loss, or destruction.

(3) Upon request of any party intending to offer deposition evidence at a contested hearing or trial, a copy of the transcript must be sent to that party for marking in compliance with subsection (b) of this rule.

(b) **Use of Deposition Evidence in Contested Hearing or Trial.** Unless otherwise ordered by the court, each party intending to offer any evidence by way of deposition testimony pursuant to F.R.Civ.P. 32 and F.R.Evid. 803 or 804 must:

(1) Lodge the original deposition transcript and a copy pursuant to this rule with the clerk at least 7 days before the hearing or trial at which it is to be offered;

(2) Identify on the copy of the transcript the testimony the party intends to offer by bracketing in the margins the questions and answers that the party intends to offer at trial. The opposing party must likewise countermark any testimony that it plans to offer. The parties must agree between themselves on a separate color to be used by each party which must be used consistently by that party for all depositions marked in the case;

(3) Mark objections to the proffered evidence of the other party in the margins of the deposition by briefly stating the ground for the objection; and

(4) Serve and file notice of the portions of the deposition marked or countermarked by stating the pages and lines so marked, objections made, and the grounds indicated therefor. The notice must be served and filed within 7 days after the party has marked, countermarked, or objects to the deposition evidence.

(c) **Deposition Summary.** In appropriate cases and when ordered by the court, the parties may jointly prepare a deposition summary to be used in lieu of question and answer reading of a deposition at trial.

LBR 7030-2. TRANSCRIPTS OF ADDITIONAL ORAL EXAMINATIONS

(a) **FRBP 2004 Examination**. All provisions of LBR 7030-1 for deposition transcripts apply to transcripts of testimony given at an examination conducted pursuant to FRBP 2004.

(b) **Meeting of Creditors or Equity Security Holders**. The provisions of LBR 7030-1(b)-(c) for deposition transcripts apply to a transcript of testimony given at a meeting of creditors or equity security holders recorder in compliance with FRBP 2003.

LBR 7041-1. DISMISSAL OF ADVERSARY PROCEEDING

(a) **Dismissal for Want of Prosecution.** A proceeding that has been pending for an unreasonable period of time without any action having been taken therein may be dismissed for want of prosecution upon notice and opportunity to request a hearing pursuant to LBR 9013-1(o).

(b) **Dismissal for Failure to Appear.** If a party fails to appear at the noticed hearing of a motion, a status conference, a pretrial conference or trial of the proceeding, the court may make such orders in regard to the failure as are just, including dismissal of the matter for want of prosecution. Unless the court provides otherwise, any dismissal pursuant to this rule is without prejudice.

(c) **Reinstatement – Sanctions.** If any proceeding dismissed pursuant to this rule is reinstated, the court may impose such sanctions as it deems just and reasonable.

(d) **Notice of Dismissal.** The clerk will provide to all parties to the proceeding notice of entry of any order dismissing a proceeding under this rule.

LBR 7052-1. FINDINGS OF FACT AND CONCLUSIONS OF LAW

(a) **Preparation and Lodging.** In all cases where written findings of fact and conclusions of law are required, the prevailing party must within 7 days of the date of the hearing at which oral findings and conclusions were rendered, file and also lodge electronically via LOU proposed findings of fact and conclusions of law, unless otherwise ordered by the court.

(b) **Findings of Fact.** The proposed findings of fact must:

(1) Be in separately numbered paragraphs;

(2) Be in chronological order; and

(3) Not simply incorporate by reference to allegations contained in the pleadings.

(c) **Conclusions of Law.** The proposed conclusions of law must follow the findings of fact, and:

(1) Must be in separately numbered paragraphs; and

(2) May include brief citations of appropriate authority.

LBR 7054-1. TAXATION OF COSTS AND AWARD OF ATTORNEYS' FEES

(a) **Who May Be Awarded Costs.** When costs are allowed by the FRBP or other applicable law, the court may award costs to the prevailing party. No costs will be allowed unless a party qualifies as, or is determined by the court to be, the prevailing party under this rule. Counsel are advised to review 28 U.S.C. § 1927 regarding counsel's liability for excessive costs.

(b) **Prevailing Party.** For purposes of this rule, the prevailing party is defined as follows:

(1) Recovery on Complaint. The plaintiff is the prevailing party when it recovers on the entire complaint.

(2) Dismissal or Judgment in Favor of Defendant. The defendant is the prevailing party when the proceeding is terminated by court-ordered dismissal or judgment in favor of defendant on the entire complaint.

(3) Partial Recovery. Upon request of one or more of the parties, the court will

determine the prevailing party when there is a partial recovery or a recovery by more than one party.

(4) Voluntary Dismissal. Upon request of one or more of the parties, the court will determine the prevailing party when the proceeding is voluntarily dismissed or otherwise voluntarily terminated.Offer of Judgment. If a party defending against a claim files under seal a written offer of judgment before trial and the judgment finally obtained by the offeree is not more favorable than the offer, the party offering the judgment is the prevailing party.

(c) **Bill of Costs.** The prevailing party who is awarded costs must file and serve a bill of costs not later than 14 days after entry of judgment. Each item claimed must be set forth separately in the bill of costs. The prevailing party, or the party's attorney or agent having knowledge of the facts must file a declaration with the bill of costs certifying that:

(1) The items claimed as costs are correct;

(2) The costs were necessarily incurred in the case;

(3) The services for which fees have been charged were actually and necessarily performed; and

(4) The costs were paid or the obligation for payment was incurred.

(d) **Items Taxable as Costs.** A list of the items taxable as costs is contained in The Central Guide.

(e) **Court Ruling.**

(1) Objection to Bill of Costs**.** Not later than 7 days after service of a copy of a bill of costs, a party dissatisfied with the costs claimed may file and serve an objection to taxation of the costs sought. The grounds for objection must be stated specifically.

(2) Hearing Not Required. The court may resolve the matter without a hearing, pursuant to LBR 9013-1(p), or set the matter for hearing.

(f) **Entry of Costs.** If a timely objection to a bill of costs is not filed or, in the event of a timely objection, as soon as practicable after an order determining the objection becomes final, the clerk will insert the amount of costs awarded to the prevailing party into the blank left in the judgment for that purpose and enter a similar notation on the docket.

(g) **Motion for Attorneys' Fees.**

(1) If not previously determined at trial or other hearing, a party seeking an award of attorneys' fees where such fees may be awarded must file and serve a motion not

later than 14 days after the entry of judgment or other final order, unless otherwise ordered by the court.

(2) The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for attorneys' fees under this rule.

(h) **Execution.** Upon written motion filed pursuant to LBR 9013-1(q), the clerk will issue a writ of execution to recover costs and attorneys' fees included in the judgment:

(1) Upon presentation of a certified copy of the final judgment in the bankruptcy court or in the district court; or

(2) Upon presentation of a mandate of the district court, bankruptcy appellate panel, or court of appeals to recover costs taxed by the appellate court.

LBR 7055-1. DEFAULT

(a) **Request for Entry of Default.**

(1) Filing and Service. A request for the clerk to enter default must be supported by a declaration establishing the elements required by F.R.Civ.P. 55(a), as incorporated into FRBP 7055, and a proof of service on the defaulting party.

(2) No Hearing Required. Pursuant to LBR 9013-1(p), a hearing on the request is not required.

(b) **Motion for Default Judgment.**

(1) Form of Motion. A motion for default judgment must state:

(A) The identity of the party against whom default was entered and the date of entry of default;

(B) Whether the defaulting party is an infant or incompetent person and, if so, whether that person is represented by a general guardian, committee, conservator, or other representative;

(C) Whether the individual defendant in default is currently on active duty in the armed forces of the United States, based upon an appropriate declaration in compliance with the Servicemembers Civil Relief Act (50 U.S.C. §§ 3901-4043).

(D) When the individual defendant is the debtor, the party seeking the default may rely upon the debtor's sworn statements contained in a statement of financial affairs, by following the appropriate procedure for requesting judicial notice of that document pursuant to F.R.Evid. 201; and

(E) That notice of the motion has been served on the defaulting party, if required by F.R.Civ.P. 55(b)(2).

(2) Evidence of Amount of Damages. Unless otherwise ordered, if the amount claimed in a motion for judgment by default is unliquidated, the movant must submit evidence of the amount of damages by declarations in lieu of live testimony. Notice must be given to the defaulting party of the amount requested.Any opposition to the amount of damages by the party against whom the judgment is sought must be in writing and supported by competent evidence.

(3) Other Relief. Other proceedings necessary or appropriate to the entry of a judgment by default may be taken as provided in F.R.Civ.P. 55(b)(2).

(4) Attorneys' Fees.

(A) When a promissory note, contract, or applicable statute provides a basis for the recovery of attorneys' fees, a reasonable attorneys' fee may be allowed in a default judgment. Subject to subsection (b)(4)(B), the reasonableness of the attorneys' fee will be calculated based upon the amount of the judgment, exclusive of costs, according to the following schedule:

Amount of Judgment	Attorneys' Fees Award
$0.01 - $1,000	30% with a minimum of $250
$1,000.01 - $10,000	$300 plus 10% of the amount over $1,000
$10,000.01- $50,000	$1,200 plus 6% of the amount over $10,000
$50,000.01- $100,000	$3,600 plus 4% of the amount over $50,000
Over $100,000	$5,600 plus 2% of the amount over $100,000

(B) An attorney seeking fees in excess of the schedule may request in the motion for default judgment to have a reasonable attorneys' fee fixed by the court. The court will hear the request and render judgment for such fee as the court may deem reasonable.

LBR 7056-1. SUMMARY JUDGMENT

(a) General. The requirements of LBR 9013-1 through LBR 9013-4 apply to a motion for summary judgment, except as provided by this rule.

(b) Motion and Supporting Documents.

(1) Motion. A notice of motion and motion for summary judgment or partial summary adjudication pursuant to FRBP 7056 must be served and filed not later than 42 days before the date of the hearing on the motion.

(2) Statement of Uncontroverted Facts and Conclusions of Law and Proposed Summary Judgment.

(A) The movant must serve, file, and lodge with the motion for summary judgment or partial summary adjudication a proposed statement of uncontroverted facts and conclusions of law and a separate proposed summary judgment.

(B) Unless otherwise ordered by the court, the proposed statement of uncontroverted facts and conclusions of law must be filed and also lodged electronically via LOU. The statement must identify each of the specific material facts relied upon in support of the motion and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish each such fact.

(3) Evidence. The movant is responsible for filing with the court all evidentiary documents cited in the motion in accordance with LBR 9013-1(i).

(c) Response and Supporting Documents.

(1) Response. Any party who opposes the motion must serve and file a response not later than 21 days before the date of the hearing on the motion.

(2) Statement of Genuine Issues.

(A) The respondent must serve, file, and lodge a separate concise statement of genuine issues with the response.

(B) Unless otherwise ordered by the court, the respondent's statement of genuine issues must be lodged electronically via LOU. The respondent's statement must identify each material fact that is disputed and cite the particular portions of any pleading, affidavit, deposition, interrogatory answer, admission, or other document relied upon to establish the dispute and the existence of a genuine issue precluding summary judgment or adjudication.

(3) Evidence. The respondent is responsible for filing with the court all necessary evidentiary documents cited in the response in accordance with LBR 9013-1(i).

(4) Need for Discovery. If a need for discovery is asserted as a basis for denial of the motion, the respondent must identify the specific facts or issues on which discovery is necessary and justify the request for additional time to pursue such discovery.

(d) Reply. Movant must serve and file any reply not later than 14 days before the hearing on the motion.

(e) Stipulated Facts. The parties may file a stipulation setting forth a statement of stipulated undisputed facts. The parties so stipulating may state that their stipulations are entered into solely for purposes of the motion for summary judgment and are not intended to be binding otherwise.

(f) Facts Deemed Admitted. In determining any motion for summary judgment or partial summary adjudication, the court may assume that the material facts as claimed and adequately supported by the movant are admitted to exist without controversy,

except to the extent that such facts are:

(1) Included in the "statement of genuine issues," and

(2) Adequately controverted by declaration or other evidence filed in opposition to the motion.

(g) **Non-Opposition to Summary Judgment is Not Consent.** Pursuant to F.R.Civ.P. 56 and FRBP 7056, mere failure to file an opposition to a motion for summary judgment shall not be deemed consent to the granting or denial of the motion for summary judgment.

LBR 7064-1. SEIZURE OF PERSONS AND PROPERTY

(a) **Issuance of Writ.** A writ or other process issued for the seizure of persons or property pursuant to F.R.Civ.P. 64, 69, or 70 must be issued, attested, signed, and sealed as required for writs issued out of this court.

(b) **Writ or Other Process of Seizure.** A writ or other process for seizure in a civil action must be directed to, executed, and returned by the United States Marshal, a state or local law enforcement officer authorized by state law, or a private person specially appointed by the court for that purpose pursuant to an application and order.

(c) **Process Requiring Entry Upon Premises.**

(1) An order of court requiring entry upon private premises without notice must be executed by the United States Marshal, a state or local law enforcement officer authorized by state law, or a private person specially appointed by the court for that purpose pursuant to an order obtained upon application filed pursuant to LBR 9013-1(q). The application must be supported by evidence supporting all facts asserted in the application.

(2) If a writ or other process is to be executed by a private person, the private person must be accompanied by a United States Marshal or a state or local law enforcement officer present at the premises during the execution of the order.

(d) **Eviction.** Any eviction to be made pursuant to a writ of, or order for, possession issued by the court must be effected by the United States Marshals Service, unless otherwise ordered by the court.

(e) **Form of Writ or Order.** Any writ of, or order for, possession to be effected by the United States Marshals Service must include the following language:

"Upon execution and entry of this Writ or Order, the United States Marshals Service [and any other executing officer authorized by the court] (collectively, the "U.S. Marshal") is immediately directed to assist [the party enforcing the writ or order] to enforce the underlying order awarding possession.

[The party enforcing the writ or order] and/or [his/her/its] authorized agent(s) will act as substitute custodian of any and all items of personal property seized pursuant to this Writ or Order and the U.S. Marshal shall have no liability arising from any acts, incidents, or occurrences in connection with the seizure of the personal property located at the subject real property arising in the ordinary authorized scope of duties of the U.S. Marshal (which acts do not include acts arising from negligent or intentional tortious conduct), including any third party claims and the U.S. Marshal shall be discharged of his or her duties and responsibilities for safekeeping of the seized goods.

The U.S. Marshal accomplishing such eviction or seizure shall use whatever reasonable force necessary to break open and enter the subject real property regardless of whether the premises or location is locked or unlocked, occupied or unoccupied and to inspect the contents of any room, closet, cabinet, vehicle, container, desk or documents.

Anyone interfering with the execution of this Writ or Order is subject to arrest by law enforcement officials."

LBR 7065-1. INJUNCTIONS

(a) **Adversary Proceeding Required.** A temporary restraining order or preliminary injunction may be sought as a provisional remedy only in a pending adversary proceeding, not in the bankruptcy case itself. An adversary complaint must be filed either prior to, or contemporaneously with, a request for issuance of a temporary restraining order (TRO) or preliminary injunction.

(b) **Temporary Restraining Orders and Preliminary Injunctions.**

(1) A TRO may be issued with or without notice in accordance with FRBP 7065.

(2) A preliminary injunction must be sought by motion in accordance with FRBP 7065.

(c) **Approval of Bonds, Undertakings, and Stipulations Regarding Security.** A bond, undertaking, or stipulation regarding security given in conjunction with the issuance of a TRO or preliminary injunction must satisfy the requirements of FRBP 7065(c) and LBR 2010-1.

LBR 7067-1. REGISTRY FUND

(a) **Deposit of Registry Funds.**

(1) General. Funds must not be sent to the court or the clerk for deposit into the court's registry without a court order.

(2) Form of Order. A party seeking authorization to deposit funds into the court's

registry must prepare and lodge with the court a proposed order using mandatory court form F 7067-1.1.ORDER.REGISTRY.FUND.

(b) Notice to Clerk.

(1) Whenever the court orders that money deposited with the court must be deposited by the clerk in an interest-bearing account, the party making the deposit or transferring funds to the court's registry must personally serve a copy of the entered order upon the clerk or chief deputy clerk along with the deposit.

(2) The failure of the party making the deposit or transferring funds to comply with section (b)(1) above releases the clerk from liability for loss of interest upon the money subject to the order of deposit.

(c) Timing of Deposit. The clerk must deposit the money pursuant to an order of deposit as soon as practicable following service of a copy of the order by the party making the deposit or transferring funds.

(d) Fees Charged on Registry Funds. All funds deposited and invested as registry funds will be assessed fees in accordance with section III of amended General Order 13-01, available at www.cacb.uscourts.gov.

(e) Disbursements of Registry Funds.

(1) General. The clerk will disburse funds on deposit in the registry of the court only pursuant to a court order.

(2) Form of Order. The disbursement order must be prepared and lodged with the court using mandatory court form F 7067-1.1.ORDER.REGISTRY.FUND. Funds will be disbursed only after the time for appeal of any related judgment or order has expired, or upon approval by the court of a written stipulation by all parties.

LBR 7069-1. ENFORCEMENT OF JUDGMENT AND PROVISIONAL REMEDIES

(a) Use of United States Marshal is Discouraged. The court encourages the use of state remedies and officers wherever appropriate to enforce judgments or obtain available remedies. The United States Marshals Service is available to enforce federal judgments as necessary, which may require an application filed under LBR 9013-1(q) that demonstrates cause for using the United States Marshals Service.

(b) Forms.

(1) Unless the court has adopted its own form, the applicable form approved by the Judicial Council of California for use in California courts must be used in this court whenever a provisional remedy is sought or a judgment is enforced in accordance with state law as provided in FRBP 7064 and 7069.

(2) The caption must be revised to specify "United States Bankruptcy Court for the

Central District of California," rather than the California courts, and the form must be modified, as necessary, to meet the requirements of LBR 9004-1 and LBR 9009-1.

LBR 7069-2. DISCOVERY IN AID OF ENFORCEMENT OF JUDGMENT

(a) **Discovery Permitted.** With respect to a judgment of the bankruptcy court and as allowed by FRBP 7069, except to the extent that a federal statute applies, a judgment creditor may obtain discovery from any person to aid in enforcing a judgment in the manner provided by F.R.Civ.P. 26-37 or in the manner provided by state law.

(b) **Rule 2004 Examination Not Permitted.** A judgment creditor may not use FRBP 2004 to collect information to use to enforce a judgment.

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LBR 8000-1. RULES APPLICABLE TO BANKRUPTCY APPEALS

(a) **All Appeals.** All bankruptcy appeals are subject to FRBP 8001 through 8028, available at www.cacb.uscourts.gov.

(b) **Appeals to District Court.** A bankruptcy appeal pending before the district court is governed by Chapter IV of the Local Rules, available at www.cacd.uscourts.gov.

(c) **Appeals to BAP.** A bankruptcy appeal pending before the BAP is governed by the Rules of the United States Bankruptcy Appellate Panel of the Ninth Circuit, available at www.ca9.uscourts.gov/bap.

(d) **Direct Appeals to Ninth Circuit Court of Appeals.** Any direct appeal to the Ninth Circuit (28 U.S.C. § 158(d)(2)), is governed by FRBP 8004(e) and 8006 and the Rules of the Ninth Circuit, available at www.ca9.uscourts.gov.

LBR 8003-1. SERVICE OF NOTICE OF APPEAL

(a) **Service on Parties to Appeal.** Within 3 days after the filing of a notice of appeal, the clerk will serve upon the counsel of record for each party to the appeal and on any party not represented by counsel a copy of the notice of appeal, Notice of Referral of Appeal, Appeal Service List, Transcript Order Form, Notice of Transcript, any motion for leave to file interlocutory appeal filed by the appellant and, if applicable, a copy of the Amended Order Continuing the Bankruptcy Appellate Panel of the Ninth Circuit.

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LBR 9001-1. DEFINITIONS

(a) **Definition of Terms.** As used in these rules, the following words and phrases are defined as follows:

(1) "**Appellate Court**" means the bankruptcy appellate panel or the district court exercising its appellate jurisdiction pursuant to 28 U.S.C. § 158.

(2) "**Application**" means a request for judicial action that must be sought by application rather than motion under the FRBP.

(3) "**Attorney" or "Counsel**" includes attorney, proctor, advocate, solicitor, counsel, or counselor.

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

(5) "**Bankruptcy Code" or "Code**" means title 11 of the United States Code.

(6) "**Brief**" includes briefs, memoranda, points and authorities, and other written argument or compilations of authorities.

(7) "**Case**" means a bankruptcy case commenced by the filing of a petition pursuant to 11 U.S.C. §§ 301, 302, 303, or 1504.

(8) "**Clerk**" means the clerk of the United States Bankruptcy Court for the Central District of California and deputy clerks. Other clerks may be specified in the text.

(9) **"CM/ECF"** means the court's Case Management/Electronic Case Files System.

(10) **"CM/ECF Procedures"** means the administrative procedures for filing, signing, and verifying documents using the Case Management/Electronic Case Files (CM/ECF) system as authorized and approved by LBR 5005-4. The instructions for registration and procedures for use of CM/ECF are posted on the court's website at the CM/ECF home page and contained in The Central Guide.

(11) **"CM/ECF User"** means a person or entity registered to use the court's Case Management/Electronic Case Files system.

(12) "**Court**" means the United States Bankruptcy Court of the Central District of California or the district court when exercising its original bankruptcy jurisdiction pursuant to 28 U.S.C. § 1334, including the judge to whom a case or proceeding is assigned.

(13) "**Court Manual**" was replaced by The Central Guide effective January 2022.

(14) "**Courtroom Deputy**" means a deputy clerk assigned to the courtroom of a judge of the court.

(15) "**Court's Website**" means www.cacb.uscourts.gov.

(16) "**Declaration**" means any declaration under penalty of perjury executed in conformance with 28 U.S.C. § 1746 and any properly executed affidavit.

(17) "**Defendant**" means a party against whom a claim for relief is made by complaint, counterclaim, or cross-claim.

(18) "**District Court**" means the United States District Court for the Central District of California.

(19) "**Document**" includes all pleadings, motions, affidavits, declarations, briefs, points and authorities, and all other documents presented for filing or lodging, excluding exhibits submitted during a hearing or trial.

(20) "**F.R.App.P.**" means the Federal Rules of Appellate Procedure.

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

(22) "**F.R.Civ.P.**" means the Federal Rules of Civil Procedure.

(23) "**F.R.Evid.**" means the Federal Rules of Evidence.

(24) "**File**" means the delivery, including electronically via CM/ECF, to and acceptance by the clerk, courtroom deputy, the court, or other person authorized by the court of a document that will be noted in the docket.

(25) "**Judge**" means a bankruptcy judge, district court judge, or other judicial officer in a case or proceeding assigned to the court.

(26) "**Local Civil Rules**" means the Local Civil Rules of the United States District Court for the Central District of California, including Chapter IV, Local Rules of the District Court Governing Bankruptcy Appeals, Cases and Proceedings; and such other rules and general orders adopted by the district court concerning cases or proceedings filed or pending in the bankruptcy court.

(27) "**Lodge**" means to deliver, including electronically via LOU, to the clerk, courtroom deputy, the court, or other person authorized by the court a document that is tendered to the court but is not approved for filing, such as a proposed form of order, a transcript of a deposition or other recorded examination, or an exhibit register.

(28) **"LOU"** means the court's Lodged Order Upload program.

(29) **"LOU Procedures"** means the procedures for LOU posted on the court's website at the CM/ECF home page and contained in The Central Guide.

(30) "**Motion**" includes all motions, applications, objections to claims that are not adversary proceedings, or other requests made for judicial action except by complaint, counterclaim, or cross-claim.

(31) **"Movant"** means an entity requesting an order other than by way of complaint, counterclaim, or cross-claim.

(32) **"NEF"** means a Notice of Electronic Filing transmitted by the CM/ECF electronic transmission program to persons or entities registered with the court for electronic delivery of filed documents.

(33) **"Ninth Circuit"** means the United States Court of Appeals for the Ninth Circuit.

(34) **"Notice of Entry"** means a docket entry or other document that provides notice to appropriate persons or entities that an order or judgment has been entered, including a Notice of Electronic Filing, a BNC Certificate of Notice, or other Proof of Service or Certificate of Mailing.

(35) **"Petitioner"** means a party who files a voluntary or involuntary petition to commence a bankruptcy case.

(36) **"Petition Packages"** are packages of basic information and forms required to file a voluntary chapter 7, chapter 11, or chapter 13 bankruptcy case in the Central District of California. Petition packages are available on the court's website at www.cacb.uscourts.gov.

(37) **"Plaintiff**" means a party claiming affirmative relief by complaint, counterclaim, or cross-claim.

(38) **"Proceeding"** includes motions, adversary proceedings, contested matters, and other matters presented to the court. It does not include a "case" as defined above.

(39) **"Proof of Service"** means a document certifying that a person or entity who filed or lodged a document with the court (A) served other appropriate persons or entities with a copy of the document filed or lodged, and (B) identified appropriate persons who will be served via NEF by the court's CM/ECF electronic transmission program.

(40) **"Respondent"** means an entity responding to a request for an order other than by way of complaint, counterclaim, or cross-complaint.

(41) **"The Central Guide"** means the online guide maintained and updated periodically by the clerk that includes four sections: Common Bankruptcy

Procedures and Information; Serving Documents and Giving Notice; Judges' Procedures – Judges' Webpages, and Match Local Bankruptcy Rules with Forms. The Central Guide is available on the court's website www.cacb.uscourts.gov.

(41) **"United States attorney"** means the United States attorney for the Central District of California, and any assistant United States attorney, employee, or designee of the United States attorney.

(42) **"United States trustee"** means the United States trustee for Region 16, and any assistant United States trustee, employee, or designee of the United States trustee.

(b) **Terms Not Otherwise Defined.** A term not defined in this rule will have the meaning provided in the Bankruptcy Code or the FRBP.

LBR 9004-1. FORM OF DOCUMENTS FILED OR LODGED WITH COURT, OR SERVED

(a) **General.**

(1) Unless otherwise expressly provided by these rules, a document filed or lodged with the court, or served, and any exhibit thereto must comply with the form and format requirements contained in The Central Guide.

(2) This rule does not prevent the use of Official Forms or court-approved forms in accordance with LBR 9009-1.

(b) **Signature of Person.**

(1) General. The name of the person signing a document must be printed clearly below the signature line.

(2) Facsimile or Electronically Produced Signature. Unless otherwise provided in a case, the clerk may accept documents for filing that bear a facsimile or electronically produced signature as the equivalent of an original signature, provided the filing party and clerk comply strictly with the court's electronic filing procedures described in LBR 5005-4 for the safeguarding of documents with original signatures.

LBR 9009-1. FORMS

(a) **Official Forms.** Official Forms are prescribed by the Judicial Conference of the United States for use in all bankruptcy courts, and may be used in any case or proceeding filed in this court.

(1) Petition Packages and Case Commencement Documents. Official Forms that must or may be filed as case commencement documents are listed in Petition Packages and in The Central Guide, and are available on the court's website.

(2) Forms Used After Case Commencement. Official Forms that must or may be filed after a case is commenced are available on the court's website.

(b) Court-approved Forms.

(1) Availability. In addition to Official Forms, additional court-approved forms must or may be used in cases and proceedings and are available on the court's website.

(2) Mandatory or Optional Use. A court-mandated form is a court-approved form designated as "mandatory." Unless specifically designated as a mandatory form or unless otherwise specifically ordered, a court-approved form provided in these rules is optional and is provided for the convenience of the parties.

(3) Names of Forms.

(A) Forms Related to a Specific LBR. Forms that relate to a specific LBR contain a name in the footer of the form that begins with an "F", followed by a number that matches the related LBR, then a shorthand reference to the purpose of the form. For example, F 4001-1.RFS.RP.MOTION.

(B) Forms Not Related to a Specific LBR. Forms that do not relate to a specific LBR contain a name in the footer of the form that begins with an "F", followed by 9009-1, then a shorthand reference to the purpose of the form. For example, F 9009-1.

(4) Mandatory Language.

(A) No Alteration or Deletion. Regardless of whether a court-approved form is mandatory or optional, no language or provisions may be altered or deleted from a form, whether a form is filed or lodged.

(B) Additional Language. Language or provisions necessary to complete a form may be provided in relevant sections of a form or attached as a clearly marked supplement to a form.

(c) Certificate of Substantial Compliance. If a modified version of an Official Form or a court-approved form is used, then such document must include a certificate that the form contains the same substance as the Official Form or court-approved form, as applicable.

LBR 9011-1. SIGNATURES

(a) Holographic Signatures. Except as provided below, every signature on a filed document must be handwritten in ink (holographic). If the document is to be filed electronically then the filer must scan the signature page and insert it into the electronic (.pdf) version of the document filed with the court. Nothing in this local rule precludes the filing of a signature page that has been transmitted to the filer by facsimile or .pdf, provided that the filer promptly obtains the document bearing the signer's original

holographic signature and complies with LBR 9011-1(d) below. Under no circumstances may a reproduction of the same holographic signature be used on multiple pages or in multiple documents. Each page that bears the signature of a person must actually have been signed by the person whose signature appears on such page.

(b) **Electronic Signatures**. A holographic signature is not required only in the following circumstances:

(1) Filer's "/s/" Signature**.** The signature of person who electronically files, lodges, or submits (Files) a document (Filer) need not be a holographic signature if the Filer complies with the court's procedures for electronic Filing. The electronic Filing of a document by a Filer through the CM/ECF, ePOC, LOU, eSR, EDB, or other court sponsored electronic program constitutes a signature on that document by such Filer and shall subject the Filer to the same consequences as if the Filer had signed such document by hand, including sanctions under FRBP 9011 and liability for perjury. When a password is required to electronically File a document, the Filer whose password is used to effectuate such Filing shall be deemed to be a Filer of the document. If required by LBR 5005-4(a), an electronically-filed document shall include in the signature block an "/s/" followed by the name of the Filer, so as to provide clear notice of who has signed the document; provided, however, that failure to do so will not invalidate the signature deemed made by the Filer.

(2) Employee of Filer: "/s/" Signature on Proof of Service**.** The signature of an employee of a court-authorized Filer, or an employee of the same law firm or other organization as the court-authorized Filer, on a proof of service or certificate of service need not be a holographic signature. The employee may sign a proof of service or certificate of service by typing an "/s/" followed by the employee's name on the signature line where such signature is required. The employee placing such "/s/" signature on the proof of service or certificate of service, and the Filer whose password is used to file such document, will be subject to the same consequences as if the employee had actually signed the document and the Filer had filed the document, including sanctions under FRBP 9011 and penalties for perjury.

(3) Approved Bankruptcy Notice Provider: "/s/" Signature on Proof of Service**.** The signature on a proof of service filed by a bankruptcy case trustee or a government agency (*e.g.,* the Office of the United States Trustee) need not be a holographic signature if (i) it is made by an entity that has been approved by the Administrative Office of United State Courts to give notice to creditors and (ii) it is signed using an "/s/" signature or the equivalent by an employee of such entity who is duly authorized by such entity to sign the proof of service.

(4) Software Generated Signature**.** This paragraph (4) governs any graphical signature created by software (*e.g.,* DocuSign) (Software Generated Signature). Software Generated Signatures are not permitted for (i) bankruptcy petitioners on any bankruptcy petition, (ii) individual debtors on the Statement About Your Social Security Numbers, (iii) debtors on the Declaration About an Individual

Debtor's Schedules (Form 106Dec) or Declaration Under Penalty of Perjury for Non-Individual Debtors (Form 202), and (iv) all debtors on statements and schedules required to be filed to comply with a debtor's duties under 11 U.S.C. §521(a). Any other signatures may be Software Generated Signatures provided that the following requirements are met:

(A) Software Must Have Robust Safeguards**.** The software that generates the signature (*e.g.,* DocuSign) must include:

(i) authentication requirements (*e.g.,* the document can only be signed using a link sent to the signer's email account, and an image of the signer's government ID must be captured by the software provider during the process of signing up for use of the software);

(ii) encryption of each Software Generated Signature;

(iii) secure storage of data (*e.g.,* encryption);

(iv) a strong audit trail (including records of when the document was sent, viewed, printed, and signed, the machine identification (ID) of the user's computer, and the Internet Protocol (IP) address); and

(v) an option for the person who is electronically signing the document to download the document that contains the signer's Software Generated Signature, to retain it for the signer's records.

All of the foregoing software requirements must meet or exceed industry best practices. The court will maintain a list of entities, available in The Central Guide, that have provided sufficient verification to the court of the safeguards listed above. The verification requirements may include a declaration by the software provider, an audit paid for by the software provider, or other methods of verification acceptable to the court. The court does not endorse nor recommend any provider of Software Generated Signatures. It is the software provider, not the Filer, who is responsible for verifying the safeguards listed above.

(B) Oral Verification. Each Filed document bearing one or more Software Generated Signatures must be accompanied by a declaration of an attorney admitted to practice in this district, or authorized to appear pro hac vice pursuant to LBR 2090-1(b) – (e) as follows:

(i) "I declare, under penalties of perjury under the laws of the United States, that I have obtained oral verification from [name of person whose Software Generated Signature appears on the accompanying document] that they intended to sign this document electronically. [Signature of Attorney]"; or

(ii) an explanation why the attorney is not providing such a verification (*e.g.,* that signer is represented by a different attorney, who has not

provided a declaration regarding the signer's oral verification in time to file the declaration with the Filed document).

For the avoidance of doubt, verification must be oral, and any written verification is insufficient even if it includes a purported holographic signature, so as to protect against persons who might have access to the hardware and software of the alleged signer and could use such access to create (A) false Software Generated Signatures and (B) false images of holographic signatures purporting to verify those electronic signatures.

(C) Flattening. No document containing any Software Generated Signature can be Filed without first being flattened, such as by printing the document to a PDF file.

(D) Limitations. The presiding judge may establish procedures regarding if and when the judge will accept any Software Generated Signature. The clerk of court may establish procedures for corrective docket entries or other remedies if there are any technical problems with one or more Software Generated Signatures in a document.

(5) Jointly Signed Documents. When a document such as a stipulation, joint report, or other document that will be Filed requires multiple signatures, any of the signatures may be Electronic Signatures if they comply with any of the preceding paragraphs of this LBR 9011-1(b). Multiple signature pages can be Filed within the same document or as separately Filed exhibits, all of which will be deemed to constitute a single integrated document.

(c) Powers of Attorney Etc. Distinguished. Nothing in this rule should be interpreted to prevent Filers from signing for non-Filers in the same manner that they could sign any paper document, such as "[non-Filer] by [Filer], per power of attorney," or "[Filer] as authorized agent for [non- Filer]" or the like, if permitted by applicable law.

(d) Retention of Original Signatures for Five Years. Whenever a holographic signature is required, but a Software Generated Signature or facsimile/scanned PDF signature is provided in place of a holographic signature, the attorney of record for the signer (i) must also obtain such holographic signature before, or within fourteen (14) days after, the document bearing the Software Generated Signature or facsimile/scanned PDF signature is filed, (ii) must maintain the executed original of any filed document for a period of five years after the closing of the case or adversary proceeding in which the document is filed, and (iii) must make the executed original available for review upon request of the court or other parties. If there is no attorney of record for the signer then the Filer must obtain and retain the holographic signature.

LBR 9011-2. PERSONS APPEARING WITHOUT COUNSEL

(a) Corporation, Partnership, Unincorporated Association, or Trust. A corporation, a partnership including a limited liability partnership, a limited liability company, or any other unincorporated association, or a trust may not file a petition or otherwise appear

without counsel in any case or proceeding, except that it may file a proof of claim, file or appear in support of an application for professional compensation, or file a reaffirmation agreement, if signed by an authorized representative of the entity.

(b) **Individuals**. Any individual who is not represented by an attorney authorized to practice in this court must appear at each hearing or status conference, either in person or, when permitted by the judge, by telephone or video, unless that appearance is excused by the court as permitted by FRBP 1004.1.

(c) **Minors or Incompetents**. A non-attorney guardian for a minor or an incompetent person must be represented by counsel. Local Civil Rule 17-1 of the district court is incorporated herein by reference.

(d) **Compliance with Rules**. Any person appearing without counsel must comply with the F.R.Civ.P., F.R.Evid., F.R.App.P., FRBP, and these rules. The failure to comply may be grounds for dismissal, conversion, appointment of a trustee or an examiner, judgment by default, or other appropriate sanctions.

LBR 9011-3. SANCTIONS

(a) Violation of Rules**.** The violation of, or failure to conform to, the FRBP or these rules may subject the offending party or counsel to penalties, including monetary sanctions, the imposition of costs and attorneys' fees payable to opposing counsel, and/or dismissal of the case or proceeding.

(b) Failure to Appear or Prepare**.** Unless otherwise ordered by the court, the failure of counsel for any party to take any of the following steps may be deemed an abandonment or failure to prosecute or defend diligently by the defaulting party:

(1) Complete the necessary preparation for pretrial;

(2) Appear at pretrial or status conference;

(3) Be prepared for trial on the date set; or

(4) Appear at any hearing where service of notice of the hearing has been given or waived.

(c) Penalties for an Unnecessary or Unwarranted Motion or Opposition**.** The presentation to the court of an unnecessary motion and the unwarranted opposition to a motion, which unduly delays the course of an action or proceeding, or failure to comply fully with these rules, subjects the offender and attorney at the discretion of the court to appropriate discipline, including the imposition of costs and the award of attorneys' fees to opposing counsel, payment of 1 day's jury fees of the panel, if one has been called for the trial, and such other sanctions, including denial of the motion or dismissal of the proceeding, as may appear proper to the court under the circumstances.

LBR 9013-1. MOTION PRACTICE AND CONTESTED MATTERS

(a) Applicability.

(1) This rule applies to (A) all contested matters (FRBP 9014), including motions, whether filed in the bankruptcy case or an adversary proceeding, objections, applications, orders to show cause, (B) all requests for an order of the court under FRBP 9013, such as applications that can be presented without a hearing, and (C) all requests that may be directed to the Clerk, such as requests for the Clerk to enter a default.

(2) This rule applies to objections to claims, except as provided in LBR 3007-1.

(3) This rule applies to motions for summary judgment, except as provided in LBR 7056-1.

(4) This rule does not apply to a motion to reject a collective bargaining agreement which is governed by 11 U.S.C. § 1113.

(5) Hearings, notice, and service.

(A) General. Except as provided in this rule or by order of the court, hearings and notice are required for all motions, and are governed by subsection (d) of this rule.

(B) Motions and matters determined after notice of opportunity to request a hearing. Motions that will be decided without a hearing absent a proper request for a hearing, are governed by subsection (o) of this rule.

(C) Notice only motions. Motions that require service of a notice, but do not require a hearing are governed by subsection (p) of this rule.

(D) Motions that do not require either a hearing or additional service of a notice. Motions that do not require either a hearing or additional service of a notice are governed by subsection (q) of this rule.

(b) Motion Calendar.

(1) Each judge of the court maintains a motion calendar and instructions for self-setting hearings that are posted on the court's website.

(2) A party must self-set a motion for hearing at a date and time permitted on the judge's motion calendar in accordance with the judge's self-set calendaring instructions.

(3) If a judge's calendar does not permit the self-setting of a hearing on a particular type of motion or the judge does not schedule a regular law and motion day, a hearing on the motion must be noticed only with the approval of

the judge or courtroom deputy.

(c) Form and Content of Motion and Notice.

(1) Oral Motions. Unless otherwise provided by rule or order of the court, an oral motion is not permitted except during trial.

(2) Notice of Motion. Every motion must be accompanied by written notice of motion specifying briefly the relief requested in the motion and, if applicable, the date, time, and place of hearing. Except as set forth in LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication, or as otherwise ordered, the notice of motion must advise the opposing party that LBR 9013-1(f) requires a written response to be filed and served at least 14 days before the hearing. If the motion is being heard on an emergency basis or on shortened notice pursuant to LBR 9075-1, the notice must specify the deadline for responses set by the court in the order approving the hearing on shortened notice or communicated to the movant if the court authorized a hearing on an emergency basis.

(3) Motion. There must be served and filed with the motion and as a part thereof:

(A) A written statement of all reasons in support thereof, together with a memorandum of the points and authorities upon which the moving party will rely. Unless warranted by special circumstances of the motion, or otherwise ordered by the court, a memorandum of points and authorities is not required for applications to retain or compensate professionals, motions for relief from automatic stay, or motions to sell, use, lease, or abandon estate assets.

(B) Declarations required or permitted by FRBP 9014(d), FRBP 9017, and or FRBP 9006(d), in which a declarant provides admissible testimony to support factual assertions made in the motion and/or authenticates exhibits included to support the motion; and

(C) Copies of all exhibits that the moving party intends to support factual assertions made in the motion.

(4) Entering a Final Order. In a motion filed in a contested matter pursuant to FRBP9014, the moving party must raise in that motion any objection or challenge to the bankruptcy court's authority to enter a final order on the motion. The moving party must cite relevant authority and provide evidence in support of its position. The failure of the moving party to raise its objection or challenge in the motion will be deemed consent to the bankruptcy court's authority to enter a final order on the motion.

(d) Time Limits for Service and Filing of Motions.

(1) Persons or Entities to be Served with the Notice and Motion. Except for a motion under LBRs 2014-1(b), 2016-1(a)(2), 3015-1(w) and (x), 7026-1(c), and 9075-1, and subject to LBR 2002-2(a) and FRBP 9034, a motion and notice thereof must be served upon the adverse party (by serving the adverse party's attorney of record, if any; or if the adverse party is the debtor, by serving the debtor and the debtor's attorney, if any; or the adverse party, if there is no attorney of record).

(2) Deadline for Filing and Serving of Notice and/or Notice and Motion. The notice of motion and motion must be filed and served not later than 21 days before the hearing date designated in the notice except as set forth in: (A) LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication; (B) LBRs 2014-1(b), 2016-1(a)(2), 3015-1(w) and (x), and 9013-1(o) with regard to motions and matters that require notice of opportunity to request a hearing; (C) LBR 3007-1 with regard to objections to claims; (D) LBR 6004-1(b) with regard to motions to establish sale procedures; and (E) LBR 9075-1 with regard to motions to be heard on an emergency or shortened notice basis. The court, for good cause, may prescribe a different time.

(e) Proof of Service. Every document filed pursuant to this rule must be accompanied by a proof of service, completed in compliance with LBR 9013-3, that indicates the filed document was (1) served by the party filing the document, and/or (2) will be served via NEF on parties registered to receive service via NEF pursuant to LBR 9036-1.

(f) Opposition and Responses to Motions.

(1) Deadline for Responses. Except as set forth in LBR 7056-1 (with regard to motions for summary judgment or partial summary adjudication), LBRs 2014-1(b), 2016- 1(a)(2), 3015-1(w) and (x), and 9013-1(o) (with regard to motions and matters that may not require a hearing), and LBR 9075-1 (with regard to motions to be heard on an emergency or shortened notice basis or unless otherwise ordered by the court), each interested party opposing or responding to the motion must file and serve the response (Response) on the moving party and the United States trustee not later than 14 days before the date designated for hearing.

(2) Contents of Response. A Response must be a complete written statement of all reasons in opposition thereto or in support, declarations and copies of all evidence on which the responding party intends to rely, and any responding memorandum of points and authorities. The Response must advise the adverse party that any reply must be filed with the court and served on the responding party not later than 7 days prior to the hearing on the motion.

(3) Entering a Final Order. In a Response to a motion filed in a contested matter

pursuant to FRBP 9014, the responding party must raise in that Response any objection or challenge to the bankruptcy court's authority to enter a final order on the underlying motion. The responding party must cite relevant authority and provide evidence in support of its position. The failure of the responding party to raise its objection or challenge in a Response will be deemed consent to the bankruptcy court's authority to enter a final order on the underlying motion.

(g) **Reply Documents.** Except as set forth in LBR 7056-1 with regard to motions for summary judgment or partial summary adjudication, or unless otherwise ordered by the court, the moving party (or the opposing party in instances where a written statement in support of the motion has been filed) may file and serve a reply memorandum not later than 7 days before the date designated for hearing.

(1) The reply memorandum and declarations or other evidence attached, must respond directly to the opposition documents.

(2) Service of reply documents is required only upon the United States trustee subject to FRBP 9034 and LBR 2002-2(a) and on persons or entities (or their attorneys, if any) who filed an opposition to a motion, and must be made by personal service, email, or by overnight mail delivery service. A judge's copy of the reply must be served on the judge in chambers in accordance with LBR 5005-2(d).

(3) Unless the court finds good cause, a reply document not filed or served in accordance with this rule will not be considered.

(4) New arguments or matters raised for the first time in reply documents will not be considered.

(h) **Failure to File Required Documents.** Except as set forth in LBR 7056-1(g) with regard to motions for summary judgment, if a party does not timely file and serve documents, the court may deem this to be consent to the granting or denial of the motion, as the case may be.

(i) **Evidence on a Motion, Response to a Motion, or a Reply.** Factual contentions involved in any motion, opposition or other response to a motion, or reply, must be presented, heard, and determined upon declarations and other written evidence. The verification of a motion is not sufficient to constitute evidence on a motion, unless otherwise ordered by the court.

(1) In lieu of oral testimony, a declaration under penalty of perjury will be received into evidence.

(2) The court may, at its discretion, in addition to or in lieu of declaratory evidence, require or allow oral examination of any declarant or any other witness in accordance with FRBP 9017. Pursuant to FRBP 9014(e), when the court intends to take oral testimony, it will give the parties 2 or more days of

notice or may grant such a continuance as it may deem appropriate, which may include setting a final hearing.

(3) Unless the court orders otherwise, a witness need not be present at the first hearing on a motion.

(4) An evidentiary objection may be deemed waived unless it is (A) set forth in a separate document; (B) cites the specific Federal Rule of Evidence upon which the objection is based; and (C) is filed with the response or reply.

(j) Appearance at Hearing.

(1) Appearance is Mandatory. Counsel for the moving and opposing parties, and the moving and opposing parties who are appearing without counsel, must appear at the hearing on the motion and must have such familiarity with the case as to permit informed discussion and argument of the motion. The failure of counsel or a self-represented party to appear, unless excused by the court in advance, may be deemed consent to a ruling on the motion adverse to that counsel's or self- represented party's position.

(2) Waiver of Personal Appearance. With the consent of the court, counsel may waive appearance at the hearing. Counsel who have agreed to waive appearance must advise the courtroom deputy of such agreement by telephone message or letter which reaches the courtroom deputy by no later than noon on the third day preceding the hearing date. The courtroom deputy will advise the parties by no later than noon on the day preceding the hearing date as to whether the court has consented to the waiver of personal appearance.

(3) Oral Argument. The court in its discretion may decide to dispense with oral argument on any motion.

(4) Method of Appearance at Hearing. A party must comply with LBR 9074-1 to determine the method of appearance.

(k) Voluntary Dismissal or Stipulation to Dismiss a Motion. In addition to compliance with FRBP 7041(a), a movant who seeks to notify the court that a voluntary dismissal or stipulation for dismissal of a motion has been filed, must not less than 3 days prior to the hearing date: (1) give telephonic notice thereof to opposing counsel and the courtroom deputy of the judge before whom the matter is pending; and (2) on the same day, serve a copy on the judge before whom the matter is pending and on the opposing counsel. An order may be required.

(l) Motion Previously Denied. Whenever any motion for an order or other relief has been made to the court and has been denied in whole or in part, or has been granted conditionally or on terms, and a subsequent motion is made for the same relief in whole or in part upon the same or any allegedly different state of facts, it is the continuing duty of each party and attorney seeking such relief to present to the judge

to whom any subsequent motion is made, a declaration of a party or witness or certified statement of an attorney setting forth the material facts and circumstances surrounding each prior motion including:

(1) The date of the prior motion;

(2) The identity of the judge to whom the prior motion was made;

(3) The ruling, decision or order on the prior motion;

(4) The new or different facts and circumstances claimed to exist, which either did not exist or were not shown upon the prior motion; and

(5) The new or different law or legal precedent claimed to exist, which either did not exist or were not shown upon the prior motion.

The failure to comply with the foregoing requirement is grounds for the court to set aside any order or ruling made on the subsequent motion and subjects the offending party or attorney to sanctions.

(m) Continuance.

(1) Motion for Continuance. Unless otherwise ordered, a motion for the continuance of a hearing under this rule must be filed as a separately captioned motion, and must be filed with the court and served upon all previously noticed parties by facsimile, email, personal service, or overnight mail at least 3 days before the date set for the hearing.

(A) The motion must set forth in detail the reasons for the continuance, state whether any prior continuance has been granted, and be supported by the declaration of a competent witness attesting to the necessity for the continuance.

(B) A proposed order for continuance must, in accordance with LBR 9021-1(b), be lodged with the court upon the filing of the motion.

(C) Unless the motion for continuance is granted by the court at least 1 day before the hearing, the parties must appear at the hearing.

(2) Stipulations for Continuances. Parties stipulating to a continuance of a hearing under this rule must notify the courtroom deputy immediately of their agreement for a continuance. The stipulation is subject to approval by the court under subsection (m)(3) of this rule. Unless the continuance is approved by the court at least 1 day before the hearing, the parties must appear at the hearing. A stipulation for continuance must contain facts establishing cause for the requested continuance and be filed in accordance with LBR 9021-1(b)(2) and LBR 9071-1.

(3) Court Approval. A continuance (whether stipulated to by counsel or not) is not effective unless an order is entered approving the continuance, the clerk informs the parties that the court has authorized a continuance, or the continuance is granted in open court.

(4) Extension of Time Due to Continuance of Hearing Date. Unless an order for continuance states otherwise, a continuance of the hearing of a motion automatically extends the time for filing and serving opposing or responsive documents and reply documents.

(n) Discovery. Unless otherwise ordered by the court, Fed.R.Civ.P. 26(a), (d) and (f), as incorporated into FRBP 7026 and LBR 7026-1, do not apply to contested matters under FRBP 9014 and this rule.

(o) Motions and Matters Determined After Notice of Opportunity to Request Hearing.

(1) Matters That May Be Determined Upon Notice of Opportunity to Request Hearing. Except as to matters specifically noted in subsection (o)(2) below, and as otherwise ordered by the court, any matter that may be set for hearing in accordance with LBR 9013-1(d) may be determined upon notice of opportunity to request a hearing.

(A) Notice. When the notice of opportunity for hearing procedure is used, the notice must:

(i) Succinctly and sufficiently describe the nature of the relief sought and set forth the essential facts necessary for a party in interest to determine whether to file a response and request a hearing;

(ii) State that LBR 9013-1(o)(1) requires that any response and request for hearing must be filed with the court and served on the movant and the United States trustee within 14 days after the date of service of the notice; and

(iii) Be filed with the court and served by the moving party on all creditors and other parties in interest who are entitled to notice of the particular matter.

(B) Motion. The motion and supporting documents must be filed with the notice, but must be served only on the United States trustee and those parties who are directly affected by the requested relief.

(2) Matters that May Not be Determined Upon Notice of Opportunity to Request Hearing. Unless otherwise ordered by the court, the following matters may not be determined by the procedure set forth in subsection (o)(1) above:

(A) Objections to claims;

(B) Motions regarding the stay of 11 U.S.C. § 362;

(C) Motions for summary judgment and partial summary adjudication;

(D) Motions for approval of cash collateral stipulations;

(E) Motions for approval of postpetition financing;

(F) Motions for continuance;

(G) Adequacy of chapter 11 disclosure statements;

(H) Confirmation of plans in chapter 9, chapter 11, chapter 12, and chapter 13 cases;

(I) Motions for orders establishing procedures for the sale of the estate's assets under LBR 6004-1(b);

(J) Motions for recognition of a foreign proceeding as either a main or a nonmain proceeding;

(K) Motions for the adoption of a chapter 15 administrative order;

(L) Motions for the adoption of a cross-border protocol;

(M) Motions to value collateral and avoid liens under 11 U.S.C. § 506 in chapter 11, 12, and 13 cases; and

(N) Motions for issuance of a TRO or preliminary injunction.

(3) No Response and Request for Hearing. If the response period expires without the filing and service of any response and request for hearing, the moving party must do all of the following:

(A) File Declaration of Service and Non-response. Promptly file a declaration attesting that: (i) no timely response and request for hearing was served upon the moving party; and (ii) that the declarant has checked the docket of the bankruptcy case or the adversary proceeding and no response and request for hearing was timely filed. A copy of the motion, notice, and proof of service of the notice and motion must be attached as exhibits to the declaration. No service is required prior to filing the declaration.

(B) Lodge Proposed Order. Lodge a proposed order in accordance with LBR 9021-1 and The Central Guide, except that the proposed order need not be served prior to lodging, except as otherwise required in these rules.

(C) Deliver Copies to Court. Promptly deliver a judge's copy of the

declaration as required by LBR 5005-2(d).

(4) Response and Request for Hearing Filed. If a timely response and request for hearing is filed and served, within 14 days from the date of service of the response and request for hearing the moving party must schedule and give not less than 14 days notice of a hearing to those responding and to the United States trustee. If movant fails to obtain a hearing date, the court may deny the motion without prejudice, without further notice or hearing.

(p) Motions and Matters Determined with Notice, but without a Hearing. The following motions may be determined without a hearing after notice provided in the corresponding LBR cited.

(1) Debtors Application to Extend the Deadline to File Case Commencement Documents [LBR 1007-1(b), LBR 3015-1(b)(2)]

(2) Motion to Convert Case from Chapter 11 to one under another Chapter [LBR 1017- 1(a)(3)]

(3) Motion for Examination under FRBP 2004 [LBR 2004-1(d)]

(4) Motion to Withdraw as Counsel [LBR 2091-1(a)]

(5) Application for Payment of Unclaimed Funds [LBR 3011-1(b)]

(6) Debtor's Application Confirming that Loan Modification Discussion Will Not Violate the Stay [LBR 4001-1(h)]

(7) Request for the Clerk to Issue Another Summons [LBR 7004-1(a)(2)]

(8) Bill of Costs [LBR 7054-1(e)]

(9) Request for the Clerk to Enter Default [LBR 7055-1(a)]

(10) Motion for Leave to Appeal from an Interlocutory Order [LBR 8001-1]

(11) Motion for Permission to File Trial Brief or Memoranda of Law Exceeding 35 Pages [LBR 9013-2(b)]

(12) Motion for Protective Order Pursuant to 11 U.S.C. § 107(c) and FRBP 9037 to Restrict Access to Documents Filed Containing Personal Identifiers [LBR 9037-1(a)]

(13) Application for Reinstatement of Privileges [LBR Appendix II, Reinstatement]

(14) Application to Have Opinion Removed from Website [LBR Appendix II, Motion to Have Opinion Removed From Website]

(15) Request for Assignment to Mediation Program [LBR Appendix III, Section 5.1]

(q) **Motions and Matters Determined without Additional Notice and without a Hearing.** Unless otherwise ordered by the court, the following motions and matters may be determined without a hearing and without additional notice, because the parties requiring notice already receive notice via an NEF.

(1) Motion for Joint Administration of Case Pending in the Same Court [LBR 1015- 1(b)]

(2) Debtor's Notice of First Time Conversion from Chapter 12 or 13 to Chapter 7 [LBR 1017-1(a)(1), LBR 3015-1(q)(2)(A)]

(3) Trustee's Request to Dismiss Chapter 7 Case for Failure to Appear at 341(a) Meeting of Creditors [LBR 1017-2(b)]

(4) Debtor's Motion to Vacate an Order Dismissing a Bankruptcy Case, When Dismissal was Due to Failure to File a Required Document [LBR 1017-2(c)]

(5) Creditor's Request to Designate an Address for Authorized Agent [LBR 2002-1(a), 11 U.S.C. § 342(g)(1), FRBP 2002(g)]

(6) Creditor's Request for Notice Despite Order Limiting Notice to Committee [LBR 2002-1(b), FRBP 2002(i)]

(7) Request for Approval of Bond or Undertaking [LBR 2010-1(c)]

(8) Application by Non-Resident Attorney to Appear Pro Hac Vice [LBR 2090-1(b)]

(9) Debtor or Trustee's Motion to Set Bar date for filing proof of Claim in a Chapter 11 Case [LBR 3003-1]

(10) Debtor's Motion for Voluntary Dismissal of Chapter 13 Case that has not previously been converted [LBR 3015-1(q)(1)(A)]

(11) Motion to Reopen Bankruptcy Case [LBR 5010-1(e)]

(12) Application for Issuance of Writ of Execution or Possession [LBR 7054-1(h), 7064-1(c), 7069-1(a)]]

(r) **Settlement of a Motion That Has Been Set for a Hearing**.

(1) Notify the Court. When a matter set for hearing has been settled prior to the hearing, the parties must immediately contact the presiding judge's courtroom deputy and file a notice of impending settlement in which the parties indicate that a stipulation regarding settlement will be filed and a proposed order

approving the stipulation will be lodged.

(2) Stipulation. If a written stipulation executed in compliance with LBR 9071-1 resolving all issues as to all parties is filed at least 2 days before a scheduled hearing and a judge's copy is delivered to chambers, no appearance at the hearing will be necessary, provided that the stipulation is accompanied by a notice and motion to approve compromise of controversy if required under FRBP 9019.

(3) Failure to Comply – Sanctions. The failure to comply with the provisions of this rule may subject counsel to the imposition of sanctions under LBR 9011-3.

LBR 9013-2. BRIEFS AND MEMORANDA OF LAW

(a) Trial Briefs.

(1) Unless otherwise ordered by the court, at least 7 days before trial is scheduled to commence, each counsel may file and serve a trial brief which may contain:

(A) A concise statement of the facts of the case;

(B) All admissions and stipulations;

(C) A short summary of the points of law involved, citing authorities in support thereof; and

(D) Any anticipated evidentiary problems.

(2) In appropriate cases, the court may require submission of trial briefs.

(b) Form of Briefs.

(1) Length. A brief must not exceed 35 pages in length, unless otherwise ordered by the court on motion filed and served pursuant to LBR 9013-1(p).

(2) Appendices. Appendices must not include any matters that properly belong in the body of the brief.

(3) Table of Contents and Table of Authorities. Any brief exceeding 10 pages in length, excluding exhibits, must be accompanied by an indexed table of contents setting forth the headings and subheadings contained in the body thereof and by an indexed table of the cases, statutes, rules, and other authorities cited.

(4) Unpublished Opinions. If a party cites an unpublished judicial opinion, order, judgment, or other written disposition, the party must file and serve a copy of that opinion, order, judgment, or disposition with the brief or other document in which it is cited.

(c) **Citations**.

(1) Acts of Congress. A citation to an Act of Congress must include a parallel citation to the United States Code by title and section, if codified.

(2) Regulations. A citation to a federal regulation must include a citation to the Code of Federal Regulations by title and section and the date of promulgation of the regulation.

(3) Cases.

(A) Federal. The initial citation of a United States Supreme Court case must be to the United States Reports. A citation to the Federal Reporter, Federal Supplement, or Federal Rules Decisions must be used where available.

(B) State. The initial citation to a state court decision must include both the official report and any regional reporter published by West Publishing Company. California parallel citations may be limited to the official reports and California Reporter.

(C) Bankruptcy. A bankruptcy case citation must be to West's Bankruptcy Reporter, where available.

(D) Unreported Decisions. Where a citation to the above-named reporters is not available, the party citing the case must provide the court with an unmarked, complete copy of the decision.

(E) Citation Form. A case citation must include the name and district or circuit of the issuing court and the year of the decision.

(4) Internal Page Citation. A case citation must include a further citation to the page where the proposition of law is found.

LBR 9013-3. PROOF OF SERVICE

(a) **Duty to Serve Documents.** Whenever in these rules the duty to serve a document is indicated by terms such as "must serve", "must be served", "need be served", "must contain proof of service", "give written notice", or similar term, a party's duty to serve a document may be accomplished via NEF if the recipient is a registered CM/ECF User. Exceptions are indicated in LBR 2002-2(a)(3) for the United States trustee and in LBR 9036-1.

(b) **Mandatory Court Form.** Proof of service must be made by executing court-mandated form F 9013-3.1.PROOF.SERVICE, providing the exact title of the document being served, the methods of service for each person or entity served, the date upon which the proof of service was executed, and the signature of the person who

performed the service and identified appropriate persons who will be served via NEF by the court's CM/ECF electronic transmission program.

(c) **Attach to Document to be Filed.** The proof of service must be attached as the last page of the document to be filed. If a supplemental proof of service is required, the supplemental proof of service must contain a complete caption page formatted in accordance with the instructions set forth in The Central Guide.

(d) **Explicitly Indicate the Method of Service and How Person or Entity is Related to the Case.** When preparing a proof of service, it must be explicitly indicated how each person who is listed on the proof of service is related to the case or adversary proceeding.

(1) Designation of Relation to Case. Examples of how a person or entity is related to a case include but are not limited to: debtor, trustee, designated creditor, attorney for designated party, agent for service of process, judge, United States trustee, etc.

(2) Methods of Service. The following methods of service are available:

(A) Service via Notice of Electronic Filing. List email addresses of CM/ECF Users who are related to the motion or other proceeding described in the document being filed, and who will be served via NEF. Explicitly indicate how each person or entity is related to the case. For example:

ATTORNEY FOR TRUSTEE: Harold Smith, hsmith@smithlaw.com

ATTORNEY FOR DEBTOR: Harold Jones, hjones@joneslaw.com

UNITED STATES TRUSTEE: ustpregion16.la.ecf@usdoj.gov

TRUSTEE: Mary Wilson, trustee@trustee.com

(B) Service by U.S. Mail. List the exact street address of each person or entity served, and if the service was by certified mail, so indicate. Explicitly indicate how each person or entity is related to the case. For example:

CREDITOR:
Neighborhood Equipment Rental
Attn: Officer or Managing/General Agent
2531 15th Street, Anytown, CA 54321

National Bank of ABC
Attention: President
456 Service Street, Suite 100, Anytown, CA 99991
Via Certified Mail

DEBTOR
Jane Doe
123 Western Avenue, #8, Anytown, CA 54321

AGENT FOR SERVICE OF PROCESS:
John Agent
456 Service Street, Suite 100, Anytown, CA 54321

(C) Service by Overnight Mail. List the exact street address of the person or entity served, and identify the company performing the overnight mail service. Explicitly indicate how each person or entity is related to the case. or example:

PRESIDING JUDGE'S COPY
Bankruptcy Judge Joan Williams
Courthouse, Suite 987
231 Courthouse Lane, Anytown, CA 91234
Via overnight mail with Fedex
Tracking number: 1234567

(D) Service by Email. List the email address of the person or entity who has consented to service by email. Explicitly indicate how each person or entity is related to the case. For example:

ATTORNEY FOR DEBTOR'S PRINCIPALS
George Block
gblock123@zweb.com

(E) Service by Facsimile. List the telephone number of the party who has consented to serve by facsimile. A document exceeding a total of 15 pages must not be served by facsimile unless expressly authorized by the party receiving the transmission or by court order. Explicitly indicate how each person or entity is related to the case. For example:

ATTORNEY FOR DEBTOR'S PRINCIPALS
George Block, (800) 999-9999

(F) Personal Service. List the date and exact address at which the party was served. Explicitly indicate how each person or entity is related to the case. For example:

PRESIDING JUDGE'S COPY - Delivered 1/4/14
Bankruptcy Judge Walter Williams
Courthouse, Suite 987
231 Courthouse Lane, Anytown, CA 91234

LBR 9013-4. <u>NEW TRIAL OR HEARING ON CONTESTED MATTERS</u>

(a) **<u>Grounds</u>.** The grounds for a motion for a new trial, a new hearing in a contested matter, or amendment of judgment pursuant to FRBP 9023 or F.R.Civ.P. 59(a) include, but are not necessarily limited to, the following:

(1) Irregularity in the proceedings of the court, adverse party, or jury;

(2) Any order of the court or abuse of discretion by which the party was prevented from receiving a fair trial;

(3) Misconduct by the jury;

(4) Accident or surprise that could not have been guarded against by the exercise of ordinary prudence;

(5) Newly discovered evidence material to the interest of the party making the application that could not with reasonable diligence have been discovered and produced at trial;

(6) Excessive or inadequate damages appearing to have been determined under the influence of passion or prejudice;

(7) Insufficiency of the evidence to justify the verdict or other decision; and

(8) Errors of law occurring at the trial.

(b) **<u>Procedure</u>**.

(1) <u>Error of Law</u>. If the ground for the motion is error of law occurring at the trial, the error or errors relied upon must be stated specifically.

(2) <u>Insufficiency of Evidence</u>. If the ground for the motion is the insufficiency of the evidence, the motion must specify with particularity wherein the evidence is claimed to be insufficient.

(3) <u>Newly Discovered Evidence</u>. If the ground for the motion is newly discovered evidence, the motion must be supported by declarations by the party, or the agent of the party having personal knowledge of the facts, showing:

(A) When the evidence was first discovered;

(B) Why it could not with reasonable diligence have been produced at trial or the original hearing on a motion;

(C) What attempts were made to discover and present the evidence at trial or the

original hearing on a motion;

(D) If the evidence is oral testimony, the nature of the testimony and the willingness of the witness to so testify; and

(E) If the evidence is documentary, the documents or duly authenticated copies thereof, or satisfactory evidence of their contents where the documents are not then available.

(c) **Documents, Transcripts, Evidence.** The motion will be determined based upon:

(1) The documents on file;

(2) The recorder's transcript or digital recording; and

(3) Declarations, if the ground is other than error of law or insufficiency of the evidence and the facts or circumstances relied on do not otherwise appear in the records of the court.

(d) **Declarations – Time for Filing.** Declarations in support of a motion for a new trial must be filed and served concurrently with the motion unless the court fixes a different time.

(e) **Hearing.** The motion for a new trial must be set for hearing as provided in LBR 9013-1(d).

LBR 9015-1. JURY TRIALS

(a) **Number of Jurors.** If a trial of the proceeding or matter is to be before a jury, the jury must consist of not less than 6 members.

(b) **Instructions.**

(1) Proposed jury instructions must be in writing, and must be filed and served at least 7 days before trial is scheduled to begin. Each requested jury instruction must:

(A) Be set forth in full on a separate page;

(B) Embrace only one subject or principle of law; and

(C) Not repeat a principle of law contained in any other request.

(2) The identity of the party requesting the jury instructions must be disclosed on a cover page only and must not be disclosed on the proposed instructions.

(3) The authority or source of each proposed instruction must be set forth on a

separate page or document and must not be disclosed on the proposed instruction.

(c) Objections to Instructions.

(1) Objections to proposed instructions must be filed and served on or before the first day of trial unless the court permits oral objections.

(2) Written objections must be numbered and must specify distinctly the objectionable matter in the proposed instruction. Each objection must be accompanied by citation of authority.

(3) Where applicable, the objecting party must submit an alternative instruction covering the subject or principle of law. The alternative instruction must be set forth on a separate document. The identity of the requesting party or the authority or source of the proposed instruction must not be disclosed on the alternative instruction.

(d) Special Verdicts and Interrogatories.

(1) Any request for a special verdict or a general verdict accompanied by answers to interrogatories must be filed and served at least 7 days before trial is scheduled to commence.

(2) Special verdicts and interrogatories must conform to the requirements of F.R.Civ.P. 49, and must not bear any identification of the party presenting the form. Identification must be made only on a separate page appended to the front of the special verdict and interrogatory form.

LBR 9015-2. DEMAND FOR JURY TRIAL

(a) Right to Trial by Jury.

(1) A party claiming a right to trial by jury must make a demand as specified in subsection (b) of this rule.

(2) Nothing contained in this rule shall be deemed to create or imply a right to a jury trial where no such right exists under applicable law.

(b) Demand.

(1) Time and Form of Demand. A party must demand a trial by jury in accordance with F.R.Civ.P. 38(b).

(2) Statement of Consent. A demand must include a statement that the party does or does not consent to a jury trial conducted by the bankruptcy court. Within 14 days of the service of the demand and statement of consent or non-consent, all other parties must file and serve a statement of consent or non-consent to a jury trial conducted by the bankruptcy court.

(3) Specification of Issues. In the demand a party may specify the issues which the party wishes so tried; otherwise the party shall be deemed to have demanded trial by jury for all the issues so triable. If a party has demanded trial by jury for only some of the issues, any other party within 14 days after service of the demand or such lesser time as the court may order may serve a demand for trial by jury of any other or all of the issues of fact in the action.

(4) Determination by Court. On motion or on its own initiative the court may determine whether there is a right to trial by jury of the issues for which a jury trial is demanded or whether a demand for trial by jury in a proceeding on a contested petition must be granted.

(5) Cover Sheet Insufficient. Any notation on Official Form 1040, Adversary Proceeding Cover Sheet, filed under LBR 7003-1 concerning whether a jury trial is, or is not, demanded does not constitute a demand for jury trial sufficient to comply with F.R.Civ.P. 38(b) or this rule.

(c) Withdrawal of Demand. A demand for trial by jury made in accordance with this rule may not be withdrawn without the consent of the parties.

(d) Waiver.

(1) The failure of a party to file and serve a demand in accordance with this rule, and to file it as required by FRBP 5005, constitutes a waiver of trial by jury.

(2) Notwithstanding the failure of a party to demand a jury when such a demand might have been made of right, the court on its own initiative may order a trial by jury of any or all issues.

(e) Trial by the Court.

(1) Subject to the provisions of subsection (d)(2) of this rule, an issue not demanded for trial by jury will be tried by the court.

(2) Where a demand for trial by jury has been made in accordance with this rule, the parties or their attorneys of record, by written stipulation filed with the court or by an oral stipulation made in open court and entered in the record, may consent to trial by the court sitting without a jury.

(f) Advisory Jury and Trial by Consent. In all actions not triable of right by jury, the court on motion or on its own initiative may try any issue with an advisory jury or, except in actions against the United States when a statute of the United States provides for trial without a jury, the court, with the consent of both parties, may order a trial with a jury whose verdict has the same effect as if trial by jury had been a matter of right.

(g) Pretrial Procedure Where Jury Trial Requested. Where a jury is demanded, all

pretrial proceedings, through approval and entry of the pretrial order, will be conducted by the bankruptcy judge.

(h) **Motion for Withdrawal of Reference**.

(1) Within 7 days of the entry of the pretrial order, any party may file and serve a motion to the district court to withdraw reference pursuant to LBR 5011-1.
(2) The failure of any party to file and serve a motion to withdraw reference within the 7-day time period constitutes consent by all parties to the jury trial being presided over by the bankruptcy judge.

(3) Nothing in this rule precludes an earlier motion to withdraw reference on the grounds set forth in 28 U.S.C. § 157(d).

LBR 9019-1. COMPROMISE OF CONTROVERSY

(a) **Contested Matter**. When FRBP 9019 applies, a motion seeking relief under FRBP 9019 is a contested matter under FRBP 9014.

(b) **Filing Motion on Bankruptcy Case Docket.** Due to the notice requirements of FRBP 2002(a)(3) and FRBP 9019(a), all motions seeking relief under FRBP 9019 must be filed on the docket of the bankruptcy case.

(1) Caption. The caption of the motion must be a caption of the bankruptcy case, not the caption of the adversary proceeding.

(2) Adversary Proceeding Docket. When a movant files a motion seeking relief under FRBP 9019 to settle one or more claims that are made in an adversary proceeding, the movant must also file, on the adversary docket, a notice that a motion under FRBP 9019 has been filed. The caption of the notice must include a reference to the docket entry of the filed motion.

(c) **Provisions of Notice; Statement About Completeness**. Both the notice of motion filed on the docket of the bankruptcy case and any notice filed on an adversary docket must contain a clear, concise statement as to whether the proposed compromise settles all claims involving all parties to the dispute, or whether any claims or parties remain in the dispute.

LBR 9020-1. ORDER TO SHOW CAUSE BY APPEARING AND FILING WRITTEN EXPLANATION WHY PARTY SHOULD NOT BE HELD IN CONTEMPT

(a) **General.** Unless otherwise ordered by the court, contempt proceedings are initiated by filing a motion that conforms with LBR 9013-1 and a lodged order to show cause. Cause must be shown by filing a written explanation why the party should not be held in contempt and by appearing at the hearing.

(b) **Motion.** The motion must be served on the responding party which shall have 7 days

to object to the issuance of the order.

(c) Proposed Order to Explain in Writing and Appear at Hearing.

(1) The proposed order must clearly apprise the party to whom it is to be directed that such party must show cause by filing a written explanation, if there is an explanation, why that party should not be held in contempt for the allegedly contemptuous conduct and by appearing at the hearing.

(2) In the proposed order:

(A) The allegedly contemptuous conduct must be clearly identified and not just by reference to the content of the motion.

(B) The possible sanctions and grounds for sanctions must be clearly identified.

(3) The proposed order must have blank spaces in which the court may fill in the date, time, and location of the hearing, and the dates by which the written explanation must be filed and served.

(d) Hearing on Issuance of Order to Show Cause Why Party Should Not be Held in Contempt.

(1) If a written explanation is not timely filed and a judge's copy served, the court may conclude that there is no objection to issuance of the order to show cause.

(2) No hearing on the motion for issuance of the order to show cause will be held unless the court so orders.

(3) If the motion for order to show cause is granted without a hearing, the court will issue and forward to the moving party the order to show cause setting the date and time of the hearing on why the party should not be held in contempt.

(e) Service of Order to Show Cause Why the Party Should Not be Held in Contempt.

(1) Unless the court orders otherwise in the order to show cause, the moving party must serve the issued order to show cause on the respondent not later than 21 days before the date set for the hearing.

(2) Personal service of the issued order to show cause is required on any entity not previously subject to the personal jurisdiction of the court.

(3) All other entities may be served either personally or by mail in accordance with FRBP 7004.

(f) Hearing on Merits of Order to Show Cause Why Party Should Not be Held in Contempt. At the hearing, the court may treat as true any uncontroverted facts

established by declaration and limit testimony to controverted facts only.

LBR 9021-1. ORDERS AND JUDGMENTS

(a) General. A proposed order or judgment (collectively, order) must be lodged either in paper form or electronically via LOU in accordance with the LOU Procedures contained in The Central Guide and these rules. Unless required as a court-mandated form order pursuant to LBR 9009-1 or otherwise ordered by the court, an order must not contain any attached agreement or other exhibit. If an order approves a motion that is based in whole or part upon an agreement or other exhibit, the order must refer to the docket number and/or title of the document in which the agreement or exhibit is found. Nothing in this rule prevents a prevailing party from serving a copy of an entered order along with a copy of an agreement or other exhibit referred to in the order.

(b) Preparation, Lodging, and Signing of Orders.

(1) Form of Proposed Order. A proposed order must be set forth in a separately captioned document complying with LBRs 9004-1 and 9009-1 and The Central Guide.

(A) Who Must Prepare. Unless the court otherwise directs, a proposed order must be prepared by the attorney for the prevailing party.

(B) When Due if a Hearing was Scheduled. If not presented at the hearing, a proposed order must be served and lodged with the clerk within 7 days of the granting thereof. Except as provided in LBR 7056-1(b)(2) and LBR 7016-1(b)(3) or if the presiding judge has posted a tentative ruling authorizing the submission of a proposed order, a proposed order must not be lodged prior to the hearing or trial of the underlying matter.

(C) Failure to Timely Lodge Order. If the prevailing party fails to serve and lodge a proposed order within the allotted time, then any other party present at the hearing may lodge and serve a proposed order. All other parties shall have 7 days within which to file and serve an objection in compliance with subsection (b)(3) of this rule. If no party submits a proposed order, the court may prepare and enter such order as it deems appropriate, including an order to appear and file written explanation as to why the motion or proceeding should not be dismissed without prejudice for failure to prosecute, and to appear at the hearing.

(D) Copies and Envelopes. Copies of the proposed order and mailing envelopes must not be provided to the court unless required in The Central Guide.

(2) Order upon Stipulation. Except as provided in LBR 3015-1(r)(3) and LBR 4001-1(b)(2)(B), a proposed order approving a written stipulation must refer to the title of the stipulation and be contained in a separate document prepared and lodged upon the filing of the stipulation with the court. A proposed order lodged electronically must be prepared and uploaded in accordance with the LOU

Procedures.

(3) Proposed Order when Opposition to Motion was Filed.

(A) Service of Proposed Order on Contesting Party. Pursuant to the Notice of Lodgment Procedures set forth in The Central Guide, the attorney who has the duty to prepare any order required by this rule must serve a copy of the proposed order on counsel, or party if filed without counsel, who filed an opposition or other objection to the relief requested, either before or on the same day that the order is lodged with the court and must file a proof of service with the order. Alternatively, the attorney preparing the order may present it to opposing counsel for approval as to form before the order is lodged, in which case opposing counsel must immediately (within 24 hours) approve or disapprove the form of order and return it to counsel who prepared it. A signature line of opposing counsel with the words "approved as to form" or, alternatively, "not approved, objection to follow" or something similar may be used for this purpose. The signature of opposing counsel indicating that an opposition is forthcoming does not excuse compliance with subsection (3)(B) below.

(B) Separate Objection to Proposed Order. If an objection to the form of a lodged order is to be filed, the opposing party must immediately (within 2 court days) upon receipt of the form of the proposed order contact the judge's clerk in chambers of the judge presiding in the matter by telephone, unless the judge's procedure indicates otherwise, to notify the presiding judge that an opposition will be filed. A voicemail detailing the matter, calendar number and date of the hearing, and the nature of the opposition, left with the judge's clerk may suffice as compliance with this duty. Opposing counsel must, within 7 days after service of a copy of a proposed order prepared under this rule, file and serve a written objection to the form of the order, setting forth the grounds therefor. Opposing counsel must attach as exhibits to the objection (i) a copy of the order that is the subject of the objection and (ii) a copy of the proposed alternative form of order. The proposed alternative form of order so labeled must be lodged with the objection. A judge's copy of the objection and proposed alternative form of order must be served on the judge in chambers in accordance with LBR 5005-2(d). The failure to immediately sign (within 2 court days) when offered the form of proposed order indicating that an objection will be filed, or failure to timely notify chambers that an objection will be forthcoming, or failure to file and serve a timely objection as required by this rule may, in the court's discretion, constitute a waiver of any defects in the form of the order.

(C) Endorsement of Counsel. Unless the court otherwise directs, a proposed order will not be signed by the judge unless (i) opposing counsel has endorsed thereon an approval as to form; (ii) opposing counsel has stipulated thereto on the record at the hearing, or (iii) the time for objection

to a form of order properly served has expired under subsection (b)(3)(B) of this rule. If it finds the ends of justice so requires, the court may conduct a hearing on the proper form of the order or decide any objection thereto without a hearing.

(4) Proposed Orders on Unopposed Motions. Notwithstanding subsection (b)(3) of this rule, if no opposition was filed, no service or proof of service of the proposed order is required prior to lodging of the proposed order, and the non-opposing party will be deemed to have waived any objection to the form of the order. The court may sign a proposed order on an unopposed motion immediately upon its lodging with the clerk without waiting for the objection period of subsection (b)(3)(B) of this rule to expire.

(5) Signing of Orders for Absent Judges. Except as otherwise provided by F.R.Civ.P. 63, application for any order on a case or proceeding must be made to the judge to whom the case is assigned. If the judge to whom the case or proceeding is assigned is not available and there is an emergency necessitating an order, the judge's courtroom deputy must be consulted to determine whether a judge of this court has been designated to handle matters in the absence of the assigned judge. If a designation has been made, the application must be presented to the designated judge. If no designation has been made, then the matter must be presented to the duty judge, if any, or in his or her absence, to any other judge in accordance with normal divisional practices. If no emergency exists, the application will be held by the assigned judge's courtroom deputy until the assigned judge is available. Any judge may sign an order for another judge.

(6) Obtaining Certified Copies of Order. Payment for a certified copy of an order must be made to the cashier in the clerk's office. No checks will be accepted in the courtroom or by courtroom deputies. If a certified copy of a stipulated or default order is desired, the order may either be presented in the courtroom together with a clerk's receipt showing prepayment of the certification fee, or the certified copy may be requested from the clerk's office after the order has been signed and entered.

(c) Entry of Orders.

(1) Timing of Taxation of Costs. Entry of an order must not be delayed pending taxation of costs to be included therein pursuant to LBR 7054-1. A blank space must be left in the form of an order for insertion of costs by the clerk after they have been taxed.

(2) Calculation of Interest. If interest is accruing or will accrue on any order, the party preparing the proposed form of order must indicate by memorandum attached thereto the applicable interest rate as computed under 28 U.S.C. § 1961(a) or 26 U.S.C. § 6621 and the amount of interest to be added for each day the document remains unsigned.

(3) By Stipulation with Entry of Order. The court may withhold entry of an order to permit the parties to submit, either separately or jointly by stipulation, the computation of the amount of money to be awarded in accordance with the court's determination of the issues.

(4) Contested Computation. If the parties do not stipulate to a computation as provided in this rule, any party may file and serve a computation claimed to be in accordance with the determination of the issues by the court. Within 7 days of service of the computation, an opposing party may file and serve an objection accompanied by an alternate computation. If no objection is filed within 7 days, the order may be entered in accordance with the original computation submitted.

(5) Hearing on Contested Computation. If it finds the ends of justice so require, the court may place the matter on calendar for hearing provided there is at least 7 days' notice to the parties. After hearing, the court will determine the correct amount on which the order will be entered. The hearing will be limited to a determination of the correct amount to be entered in the order and shall not constitute an opportunity for rehearing or reconsideration of the determination of other issues previously ruled on by the court.

(6) Effect of Stipulation to Amount of Costs. A stipulation by the parties to the amount to be entered pursuant to the determination of the issues by the court will not be deemed to be a waiver of any rights of the parties to appeal or otherwise challenge the determination of such issues by the court.

(7) Delegation of Authority to Sign Designated Orders. The court may delegate authority to the clerk to:

(A) Sign specified form orders involving ministerial matters; and

(B) Facsimile stamp specified orders consistent with oral rulings by the court.

(d) Duty of Clerk as to an Order Directing an Action by an Official of the United States. When an order is entered by the court directing any officer of the United States to perform any act, unless such officer is present in court when the order is made, the clerk must forthwith transmit a copy of the order to the officer ordered to perform the act.

(e) Amended or Corrected Orders.

(1) If an error or omission in the form of an entered or lodged order is discovered, a party in interest may request amendment or correction of the order by filing and serving a motion under LBR 9013-1(d) or (o).

(2) The motion must set forth specifically the changes requested in the form of the order and reasons such changes are necessary and appropriate. A copy of the

proposed amended order must be attached as an exhibit to the motion when filed and served.

(3) The amended order must state in its caption the date of entry of the original order and, if applicable, the date, time, and place of the original hearing.

(4) If the motion is filed and served pursuant to LBR 9013-1(o), the proposed amended order itself must be lodged at the same time as the required declaration establishing that no timely objection was served.

LBR 9027-1. REMOVAL AND REMAND

(a) **Notice of Removal.** A notice of removal must be filed with the clerk of the bankruptcy court pursuant to FRBP 9027 and simultaneously served on all other parties to the removed action, on any trustee appointed in the bankruptcy case, and on the United States trustee. The failure to promptly serve the notice of removal may result in extension of the time to respond under FRBP 9027(e)(3).

(b) **Status Conference**.

(1) Using the court-mandated form, the party filing a notice of removal must prepare a notice of status conference regarding removal of action, and present it to the clerk concurrently with the filing of a notice of removal.

(2) The clerk will set a status conference to be held not later than 45 days after the date that the clerk issues and files a notice of status conference, unless otherwise ordered by the court.

(3) The party who files a notice of removal must serve the notice of status conference on all other parties to the removed action, on any trustee appointed in the bankruptcy case, and on the United States trustee. Service must be completed no later than 14 days after the date the notice was issued and filed.

(c) **Remand.** A motion for remand must be filed with the clerk of the bankruptcy court not later than 30 days after the date of filing of the notice of removal, and served under LBR 9013-1(d).

(d) **Filing Copies of Docket and Filed Documents**.

(1) Unless otherwise ordered by the court, the party filing a notice of removal must file with the clerk:

(A) A copy of the docket of the removed action from the court where the removed litigation was pending; and

(B) A copy of every document on the docket, whether the document was filed by a party or entered by the court. The copies must be provided in chronological order according to the date the document was filed.

(2) All such documents must be filed not later than:

(A) 30 days after the date of filing of the notice of removal; or

(B) if a motion to remand is filed prior to expiration of such 30-day period, 14 days after entry of an order denying such motion to remand.

(e) **Demand for Jury Trial.** Within 14 days after service of the notice of removal, a party must comply with LBR 9015-2 to preserve any right to a trial by jury.

LBR 9036-1. NOTICE AND SERVICE BY ELECTRONIC TRANSMISSION

(a) **Service on Registered CM/ECF Users**.

(1) NEF Constitutes Service. Upon the addition of any document or item to a CM/ECF docket, whether electronically or non-electronically, an NEF is automatically generated by CM/ECF and sent electronically to all persons or entities that are CM/ECF Users and have consented to electronic service. Regardless of whether it is the duty of the court or of another person or entity to provide notice or service, service of the NEF constitutes notice and service pursuant to the F.R.Civ.P., FRBP, and these rules for all persons and entities that have consented to electronic service.

(2) NEF Does Not Constitute Service. Electronic transmission of an NEF does not constitute service or notice of the following documents that must be served non-electronically:

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

(B) Service upon the United States trustee of documents listed as exceptions under LBR 2002-2(a)(3);

(C) Service of a proof of claim upon debtor's attorney under LBR 3015-1(b)(5);

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

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

(F) Where conventional service is otherwise required under the F.R.Civ.P., FRBP, LBRs, or by court order.

(b) **Service on non-CM/ECF Users.** A person or entity that is entitled to service of a document, but is not a CM/ECF User or is a CM/ECF User who has not consented to electronic service, must be served as otherwise provided by the F.R.Civ.P., FRBP, and these rules.

(c) **Service on Debtors who Request DeBN**.

(1) Consent Limited to Service from the Bankruptcy Noticing Center. A debtor who requests delivery by email of notices via the Debtor Electronic Bankruptcy Noticing (DeBN) program only consents to delivery of orders and notices delivered by the Bankruptcy Noticing Center.

(2) Notice and Service from All Other Parties. All other parties, including attorneys and trustees, must continue to serve debtors non-electronically using methods authorized under FRBP 7004 and 7005(b).

LBR 9037-1. REDACTION REQUESTS AND PROTECTIVE ORDERS REGARDING PERSONAL IDENTIFIERS

(a) **Redaction from Filed Document**.

(1) Motion. When a document has been filed containing a personal identifier, a party in interest may file a motion to block public access to the document, using the court-approved form or other language consistent with the court-approved form. The motion may be ruled upon without a hearing pursuant to LBR 9013-1(p). A closed case does not need to be reopened to file this motion.

(2) Service. The motion must contain proof of service by U.S. mail upon the debtor, debtor's counsel (if applicable), United States trustee, and the case trustee (if applicable).

(3) Order**.** An order must be lodged, using the court-approved form order or other language consistent with the court-approved form.

(4) Filing of Redacted Document**.** After entry of an order granting the motion, the movant must promptly file the redacted document.

(b) **Redaction from Transcript.** Pursuant to the court's transcript redaction policy, a (1) Notice of Intent to Request Redaction, and (2) Transcript Redaction Request may be filed using court-approved forms.

LBR 9070-1. EXHIBITS USED AS EVIDENCE TO SUPPORT LIVE TESTIMONY

(a) **Application.** This rule applies to exhibits to be offered as evidence when live testimony is given at trials in adversary proceedings or evidentiary hearings in contested matters.

(b) **Filing; Lodging; Copies to Distribute**.

(1) Filing. If filing of an exhibit is required, the deadline is set by court order or found in instructions found on the presiding judge's webpage. The duty to file exhibits is with the party who presented or intends to present the exhibit at a trial or evidentiary hearing.

(2) Identification. Unless otherwise ordered by the court, copies of all exhibits to be offered into evidence at an in-person trial of in an adversary proceeding or at an evidentiary hearing in a contested matter must be numbered and marked for identification with tags available from the clerk's office or in The Central Guide.

(A) Numbers. Exhibits of plaintiffs or movants must be marked with numbers.

(B) Letters. Exhibits of defendants or respondents must be marked with letters.

(3) Exhibit Register. The parties presenting exhibits must tag the exhibits and prepare an exhibit register on the form available from the clerk's office prior to trial.

(4) Lodging Exhibits. Unless otherwise ordered by the court, the tagged exhibits and completed exhibit register must be delivered in the courtroom to the courtroom deputy or court recorder prior to the beginning of trial.

(5) Copies. Each party must bring sufficient copies of each exhibit for all counsel, the witness, and the judge.

(c) Retention and Disposition of Trial Exhibits.

(1) All models, diagrams, documents, or other exhibits lodged with the clerk that are admitted into evidence or marked at trial will be retained by the clerk until expiration of the time for appeal without any appeal having been taken, entry of a stipulation waiving or abandoning the right to appeal, final disposition of any appeal, or order of the court, whichever occurs first.

(2) If any exhibit is not withdrawn from the clerk's office within 30 days after the person or persons to whom it belongs are given written notice to claim it, the clerk may destroy the exhibit or otherwise dispose of it as the court may approve.

(d) Impeachment Exhibits. Exhibits to be presented for impeachment purposes must be submitted according to instructions of the presiding judge. If such exhibits are submitted electronically but not filed, the method must comply with the court's electronic protocols. If such exhibits are to be filed after a trial or a hearing, they must be filed by the earlier of two days after the date on which they are ruled admissible or two days after a trial or hearing.

LBR 9071-1. STIPULATION

(a) General.

(1) Oral Stipulation. An oral stipulation will be enforceable by the court if made and approved in open court.

(2) Written Stipulation. A written stipulation entered into pursuant to these rules must be filed with the court, but will not be effective until a separate order thereon

is entered.

(3) Order on Stipulation. An order on a stipulation must be prepared and lodged in accordance with LBR 9021-1(b)(2).

(b) Stipulation Requiring Notice under FRBP 4001(d) or 9019.

(1) Unless otherwise ordered by the court, the notice requirement of FRBP 4001(d) or FRBP 9019 may be satisfied by either serving the motion on each of the entities specified in the applicable rule when it is filed or by serving on such entities a motion for approval of the proposed settlement stipulation pursuant to LBR 9013-1(o).

(2) A stipulation requiring notice under either FRBP 4001(d) or FRBP 9019 requires approval by the court.

LBR 9074-1. APPEARANCES AT COURT HEARINGS BY TELEPHONE, VIDEOCONFERENCE, OR IN PERSON

A party must consult the presiding judge's web page or posted calendar to determine whether it is permissible to appear at a particular hearing by telephone or videoconference instead of in person. See section 3-04 of The Central Guide to obtain the judge's procedure for making an appearance.

LBR 9075-1. EMERGENCY MOTIONS AND APPLICATIONS FOR ORDERS SETTING HEARING ON SHORTENED NOTICE

(a) Emergency Motion.

(1) Scope of Rule. An emergency motion requiring an order on less than 48 hours notice must be obtained in accordance with this rule.

(2) Obtaining Hearing Date and Time. Unless otherwise ordered by the court, a hearing date and time may be obtained by telephoning the chambers of the judge to whom the case is assigned or such member of the judge's staff as may be designated to schedule hearings on emergency motions.

(A) The contact information for the designated member of the judge's staff is available in The Central Guide, Section 3-08. Prior to telephoning chambers, the court's website should be consulted to determine whether the judge has additional procedures or instructions for obtaining a hearing on an emergency motion.

(B) The request for a hearing on less than 48 hours notice may be granted if the party shows cause why a hearing is needed within 48 hours, and why the court should set a hearing before the motion is filed and before a declaration has been filed setting forth the need for a hearing on less than 48 hours notice.

(3) Court Ruling on Request for Hearing. The request for a hearing on less than 48 hours notice will be determined by the court on the basis of the telephonic communication, subject to the right of any party to object to the adequacy of notice pursuant to subsection (c) of this rule. The court will promptly notify the movant whether it approves or denies the movant's request.

(4) Contents of Motion. The motion must: (A) state the relief requested, (B) comply with any other applicable provisions of these rules regarding the relief requested, and (C) be accompanied by the declaration of one or more competent witnesses under penalty of perjury that (i) justifies the setting of a hearing on less than 48 hours notice and (ii) supports the granting of the motion itself on the merits. A separate motion for an expedited hearing is not required under this rule.

(5) Telephonic Notice. Unless otherwise ordered by the court, immediately upon obtaining a hearing date and time, movant must give telephonic notice of the emergency hearing and the substance of the motion to the parties to whom notice of the motion is required to be given under the FRBP and these rules, the United States trustee, and any other party that is likely to be adversely affected by the granting of the motion. Movant must also advise the parties by telephone whether the motion will be served by email, fax, or personal service.

(6) Service of Motion. Unless otherwise ordered by the court, movant must serve the motion by email, fax, or personal service on the parties set forth in subsection (a)(5) not later than the time the motion is filed with the court.

(7) Filing of Motion. Unless otherwise ordered by the court, the motion must be filed not later than 2 hours before the time set for the hearing and a judge's copy served on the judge in chambers in accordance with LBR 5005-2(d).

(8) Response to Motion. Any response, written or oral, to the motion may be presented at the time of the hearing on the motion.

(9) Proof of Notice to be Presented at the Hearing. At the time of the hearing, movant must present to the court and file (A) a declaration of the efforts made to give telephonic notice of the hearing and substance of the emergency motion to the parties set forth in subsection (a)(5) and (B) a proof of service of the motion.

(b) Order Setting Hearing on Shortened Notice.

(1) Scope of Rule. A party may request that a non-emergency motion be heard on notice shorter than would otherwise be required by these rules. Such a request must be made by written application consistent with court-approved form F 9075-1.1.APP.SHORT.NOTICE, Application for Order Setting Hearing on Shortened Notice ("application"). The application may be granted for good cause shown in accordance with this rule.

(2) Contents of Application. Unless otherwise ordered by the court, the application must:

(A) Describe the nature of the relief requested in the underlying motion, identify the parties affected by the relief requested in the motion, and state the reasons necessitating a hearing on shortened notice; and

(B) Be supported by the declaration of one or more competent witnesses under penalty of perjury that justifies the setting of a hearing on shortened notice and establishes a prima facie basis for the granting of the underlying motion.

(3) Filing of Application. An application must be filed with the clerk concurrently with the motion that is to be heard on shortened notice.

(4) Service of Application. Unless otherwise ordered by the court, movant must serve the application and the motion on each of the parties to whom notice of the underlying motion is required to be given under the FRBP and these rules, the United States trustee, and any other party that is likely to be adversely affected by the granting of the underlying motion. A separate notice of the application is not required.

(5) Proposed Order Setting Hearing on Shortened Notice. At the time the application and underlying motion are filed, movant must lodge a separate proposed order consistent with court-approved form F 9075-1.1.ORDER.SHORT.NOTICE, Order Setting Hearing on Shortened Notice that (A) identifies the parties to whom notice is proposed to be given; (B) states the nature and timing of the proposed shortened notice, which must not be less than 48 hours; (C) states the means of service, *i.e.*, telephone, fax, email, personal service, or as ordered by the court; and (D) contains appropriate blanks for the court to insert the date and time of the hearing and the date for filing and serving the opposition.

(6) Court Ruling on Application. The application will be determined by the court on the basis of the documents submitted with the application, subject to the right of any party to object to the adequacy of notice pursuant to subsection (c) of this rule. The court will promptly notify the movant of its decision on the application and, if granted, the date and time set for the hearing.

(7) Notice of Hearing.

(A) If the application is granted, movant must serve the order setting the hearing on shortened notice on each of the parties to whom notice of the underlying motion is required to be served by the FRBP and these rules, the United States trustee, any other party that is likely to be adversely affected by the granting of the underlying motion, and as otherwise ordered by the court. Notice must be given by telephone, fax, email, personal service, or as ordered by the court.

(B) If the application is denied, movant may, unless otherwise ordered by the

court, set the underlying motion for hearing on regular notice and serve notice of the hearing in accordance with LBR 9013-1(d).

(8) Proof of Service. Proof of service of all required documents must be filed at least 2 days before the hearing, unless otherwise ordered by the court.

(c) Objection to Timing of Hearing. At the hearing on the motion, any party may object to the adequacy of the notice provided and seek a continuance for good cause shown.

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Appendix I

LOCAL BANKRUPTCY RULES FORMS LIST

For a list of Local Bankruptcy Rules Forms refer to the Forms/Local Bankruptcy Rules Forms tab on the Court's website www.cacb.uscourts.gov

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UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

In Re: ATTORNEY DISCIPLINE PROCEDURES IN BANKRUPTCY COURT	))))))	**SIXTH AMENDED GENERAL ORDER 96-05**

Applicability

This general order establishes a process for court wide discipline of attorneys in the bankruptcy court.

These procedures shall apply when any judge of this court wishes to challenge the right of an attorney to practice before this court or recommends the imposition of attorney discipline intended to apply in all bankruptcy cases in this court.

Nothing in this general order is intended to limit or restrict the authority of any judge to impose sanctions on any attorney in any case or cases assigned to that judge.

Initiation of Disciplinary Proceedings

If a bankruptcy judge wishes to initiate disciplinary proceedings under this general order, that judge (the “Referring Judge”) shall prepare and file with the Clerk of Court

a written Statement of Cause setting forth the judge's basis for recommending discipline and a description of the discipline the referring judge believes is appropriate.

The clerk shall open a case file, assign a miscellaneous case number, and initiate a docket for the file. The clerk shall then send notice to all judges of this Court, including any judges on recall, with the Statement of Cause and provide a two-week deadline for any judge to add any additional statement. The clerk shall then select three bankruptcy judges of this district at random (excluding the judge who filed the Statement of Cause and any judge who sent an additional statement) to serve on the Hearing Panel (the "Panel") which will determine whether the attorney shall be disciplined and, if so, the type and extent of discipline. If any of the Statements of Cause have not been served on the attorney under review, they shall be sent to the attorney named in the Statement(s) of Cause. The most senior judge assigned to the Panel shall be the Presiding Judge. The clerk shall prepare a Designation of Hearing Panel and Presiding Judge which shall include a signature line for each of the designated judges. The signature of each judge shall certify his or her acceptance of assignment to the Panel. Should any judge decline to serve, the clerk shall select another judge to serve on the Panel, give written notice thereof to the other judges on the Panel and issue a Supplemental Designation of Hearing Panel, which shall contain a signature line for the newly appointed judge to accept the assignment.

Once the clerk has obtained the acceptance of three judges to serve on the Panel, the clerk shall prepare a Notice of Assignment of Hearing Panel, which the clerk will serve on the attorney named in the Statement of Cause ("the attorney") and on the local Office of the United States Trustee, along with a copy of the Statement of Cause and a copy of this general order. The attorney may file a motion for recusal as to any of the judges assigned to the Panel within 14 days of the service of the Notice of the Assignment of Hearing Panel and serve the motion on the Office of the United States Trustee. That motion may be heard by any judge other than the referring judge, any judge who sent an additional statement, any judge assigned to the Panel, or any judge who has declined to serve on the Panel. The assignment of the recusal motion to a judge shall be made at random by the clerk, who shall

give notice of the recusal hearing to the attorney and to the Office of the United States Trustee at least 14 days before the hearing date.

Once the period for bringing a recusal motion has terminated, or after disposition of any recusal motion, the Presiding Judge shall advise the clerk of the date, time, and place for the Disciplinary Hearing, whereupon the clerk shall prepare a Notice of Disciplinary Hearing and mail the notice to the attorney and to the Office of the United States Trustee at least 21 days before the hearing date.

If, at any point in this process, a judge has accepted assignment of a case but must later withdraw, the clerk will randomly assign another judge to the Panel. The above procedure for acceptance of assignment to the panel and opportunity to file a motion for recusal will be followed as to the judge substituting in to the Panel.

Whenever the California State Bar suspends or disbars an attorney who has an active case in this court, the Chief Judge (or another judge of the Court designated by the Chief Judge) will issue an order to show cause to the attorney requiring him or her to explain why the same discipline should not be imposed suspending or disbarring that attorney from practicing before this court. If no response is received by the deadline provided, the attorney will be barred or suspended from practice in front of this court with no further proceedings. If the attorney responds and wishes to challenge further suspension or disbarment, the Clerk shall open a case file and proceed in the same manner as provided for in the above initiation of proceedings. If requested, the attorney must authorize the State Bar to share appropriate files with the disciplinary panel as part of its review.

Additional Input

The Panel or any member thereof may request additional information concerning the conduct of the attorney in the subject case or any other case from the Referring Judge, the United States Trustee and/or another judge(s) in this district. Any such request (a "Request") shall be in writing and shall be filed in the disciplinary proceeding and served on all members

of the Panel, the attorney, the United States Trustee and the party or parties to whom the Request is directed. The Request shall specify a deadline for the response.

Any response(s) to a Request (a "Response") shall be in writing and shall be filed in the disciplinary proceeding and served on all members of the Panel, the attorney and the United States Trustee. The attorney may file a written reply to a Response within 7 days after service of the Response. A copy of the reply shall be served on all members of the Panel, the United States Trustee and the party who filed the Response.

Except in a Response or as otherwise authorized in this Order, the Referring Judge and any judge who sent an additional statement shall not communicate with the Panel concerning the merits of a pending disciplinary proceeding.

Hearing Procedures

The attorney may appear at the Disciplinary Hearing with legal counsel and may present evidence:

(A) Refuting the statements contained in the Statement of Cause;

(B) Refuting the statements contained in a Response;

(C) Mitigating the discipline (i.e., that, notwithstanding the validity of the statements in the Statement of Cause or a Response, the attorney should not be disciplined); and

(D) Bearing on the type and extent of disciplinary action appropriate under the circumstances.

The Federal Rules of Evidence shall apply to the presentation of evidence at the Disciplinary Hearing, and an official record of the proceedings shall be maintained as though the Disciplinary Hearing were a contested matter as that term is defined in the Federal Rules of Bankruptcy Procedure. The United States Trustee for the district may appear at the hearing in person or by counsel and may participate in the presentation of evidence as though she or he were a party to the proceeding. If the United States Trustee wishes to appear at the hearing, she or he must file a Notice of Intent to Appear, setting forth the purposes for the appearance, and serve that notice on the attorney at least 14 days before

1 the hearing. The Panel may disregard written statements or declarations of innocence or in
2 mitigation of the attorney's conduct unless they are filed with the court with copies delivered
3 promptly thereafter to the chambers of each member of the Panel at least 7 days prior to the
4 hearing. Written statements presented to the Panel for consideration as evidence by or on
5 behalf of the attorney may be disregarded by the Panel if the declarant is unavailable at the
6 hearing for cross-examination and for examination by the Panel.

7 **Ruling**

8 At the conclusion of the Disciplinary Hearing, the judges of the Panel will adjourn to
9 a private session to consider the matter. The ruling of the Panel will be made by majority
10 vote of the judges on the Panel. The Presiding Judge will assign to a judge in the majority
11 the task of drafting the Panel's Memorandum of Decision setting forth the majority's decision
12 and its reasons. Any member of the Panel may issue a concurring or dissenting opinion
13 which will be made a part of the Memorandum of Decision.

14 The Panel shall issue a Discipline Order signed by all members of the Panel based
15 on the Panel's Memorandum of Decision. That order may provide for any appropriate
16 discipline, including but not limited to revocation or suspension of the right to practice before
17 all the judges of this court. A copy of the entered Discipline Order shall be served on the
18 attorney, all judges of the United States Bankruptcy Court for the Central District of California
19 and the United States Trustee.

20 The attorney, the Referring Judge and/or the United States Trustee may file a motion
21 for rehearing, clarification or more detailed findings (a "motion for rehearing") within 14 days
22 after entry of the Discipline Order. (Nothing contained in this order precludes the Panel
23 appointed in a given disciplinary proceeding from concluding that a Referring Judge lacks
24 standing to file a motion for rehearing.)

25 The Discipline Order will become final 14 days after entry or, if a motion for rehearing
26 is filed, 14 days after entry of an order denying the motion for rehearing. The same rule as
27 to finality will apply to a new or revised Discipline Order, if one is issued by the Panel after
28 rehearing.

The Discipline Order shall be sent by the clerk to the Clerk of the District Court. Should the Panel so order, a Discipline Order also may be transmitted by the clerk to the State Bar of California or published in designated periodicals, or both.

If an attorney's practice privileges have been revoked, modified, or suspended by final order of a Panel, the attorney may not appear before any of the judges of this court representing any other persons or entities except in compliance with the terms of the Discipline Order.

Reinstatement

An attorney whose privileges have been revoked, modified, or suspended under this general order may apply to the Chief Judge of this court for reinstatement of privileges on the following schedule:

(A) If privileges were revoked without condition for an unlimited period of time, the attorney may apply for reinstatement after five years from the date the Discipline Order becomes final;

(B) If privileges were revoked or suspended with specified conditions precedent to reinstatement, the attorney may apply for reinstatement upon fulfillment of the conditions set forth in the Discipline Order; and

(C) If privileges were suspended for a specified period of time, the attorney may apply for reinstatement at the conclusion of the period of suspension or five years after the Discipline Order becomes final, whichever first occurs.

An Application for Reinstatement of Privileges must include a copy of the Discipline Order, proof that all conditions justifying reinstatement have been fulfilled, and proof that the applicant is in good standing before the United States District Court for the Central District of California and is a member in good standing of the State Bar of California. If the attorney's privileges were revoked, or if the suspension was for a time in excess of five years and was without any conditions precedent to reinstatement, it shall be within the sole discretion of the Chief Judge whether to issue a reinstatement order. If the Chief Judge determines that the

attorney is entitled to reinstatement of practice privileges, he or she may issue a Reinstatement Order. Upon entry of the Reinstatement Order, the attorney affected thereby shall be deemed eligible to practice before all the judges of this court except to the extent any judge of this court has issued an order, other than under this rule, denying that attorney the right to appear before that judge or to appear in a particular case.

Upon entry, the clerk shall transmit a copy to all judges of this court and to the attorney, the clerk of the District Court, and to the United States Trustee. In addition, if the Discipline Order was sent to the State Bar or published, the Clerk shall transmit the Reinstatement Order to the State Bar and publish it in the same publication, if possible. If the Chief Judge does not grant the Application for Reinstatement of Privileges, he or she shall issue an order denying the application together with a separate written statement of the reasons for his or her decision. That order will become final 14 days after entry.

If an attorney's Application for Reinstatement of Privileges is denied, he or she may reapply for reinstatement after one year from the date of entry of the order denying the previous application or within such other time or upon fulfillment of such conditions as may be set forth in the order denying reinstatement.

Maintenance of Discipline Files

Except to the extent that access to a particular file is restricted or prohibited by order of the Chief Judge or the Panel to which the matter was assigned, (1) those files shall be maintained in accordance with applicable law and rules for maintenance of miscellaneous files of this court and shall be available for review and copying by members of the public, and (2) orders, opinions and written memoranda issued in these matters shall be published on the court's website.

The clerk shall close a disciplinary file 30 days after entry of a dispositive order (for example, an Order Re Revocation of Privileges or a Reinstatement Order) in that proceeding unless within that time the clerk receives a Notice of Appeal of any order rendered in the proceeding or other information justifying maintenance of the file in an open

status. The clerk shall reopen a disciplinary file upon the request of the attorney, for the convenience of the court, or upon order of any judge of this court, whereupon the clerk shall advise the Chief Judge accordingly. So long as any disciplinary files remain open, the clerk shall provide the Chief Judge a quarterly status report of all such open files to which will be attached copies of their dockets. The Chief Judge may order any such files closed when he or she deems it appropriate, consistent with the provisions hereof and the status of any such matter.

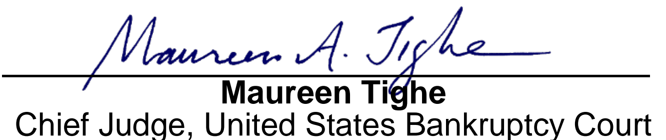
Motion to Have Opinion Removed from Website

At any time after the entry of a Reinstatement Order, the attorney may apply to the Chief Judge of this court for an order directing the Clerk to remove the Discipline Order and any related opinion and memoranda from the court's website. An application for this relief must include a copy of the Discipline Order and the Reinstatement Order. It shall be within the sole discretion of the Chief Judge whether to grant such an application.

Appeals

All orders issued pursuant to this rule shall be appealable to the extent permitted by applicable law and rules of court.

Date: December 18, 2019



Maureen Tighe
Chief Judge, United States Bankruptcy Court

APPENDIX III

ADOPTION OF MEDIATION PROGRAM FOR BANKRUPTCY CASES AND ADVERSARY PROCEEDINGS
(Third Amended General Order No. 95-01)

1.0 PURPOSE AND SCOPE

The United States Bankruptcy Court for the Central District of California (the "Court") recognizes that formal litigation of disputes in bankruptcy cases and adversary proceedings frequently imposes significant economic burdens on parties and often delays resolution of those disputes. The procedures established herein are intended primarily to provide litigants with the means to resolve their disputes more quickly, at less cost, and often without the stress and pressure of litigation.

The Court also notes that the volume of cases, contested matters and adversary proceedings filed in this district has placed substantial burdens upon counsel, litigants and the Court, all of which contribute to the delay in the resolution of disputed matters. A Court-authorized mediation program, in which litigants and counsel meet with a mediator, offers an opportunity for parties to settle legal disputes promptly, less expensively, and to their mutual satisfaction. The judges of the Court hereby adopt the Mediation Program for Bankruptcy Cases and Adversary Proceedings (the "Mediation Program") for these purposes.

It is the Court's intention that the Mediation Program shall operate in such a way as to allow the participants to take advantage of and utilize a wide variety of alternative dispute resolution methods. These methods may include, but are not limited to, mediation, negotiation, early neutral evaluation and settlement facilitation. The specific method or methods employed will be those that are appropriate and applicable as determined by the mediators and the parties, and will vary from matter to matter.

Nothing contained herein is intended to preclude other forms of dispute resolution with the consent of the parties.

2.0 CASES ELIGIBLE FOR ASSIGNMENT TO THE MEDIATION PROGRAM

Unless otherwise ordered by the judge handling the particular matter (the "Judge"), all controversies arising in an adversary proceeding, contested matter, or other dispute in a bankruptcy case are eligible for referral to the Mediation Program.

3.0 PANEL OF MEDIATORS

3.1 Selection

a. The Court shall establish and maintain a panel ("Panel") of qualified professionals who have volunteered and been chosen to serve as a mediator ("Mediator") for the possible resolution of matters referred to the Mediation Program. The Panel shall be comprised of both attorneys and non-attorneys.

b. Applicants shall submit an Application (in the form attached) (the "Application") to the judge appointed as the administrator of the Mediation Program (the "Mediation Program Administrator"), setting forth their qualifications as described in Paragraph 3.3 below.

c. The judges of the Court will select the Panel from the applications submitted to the Mediation Program Administrator. The judges will consider each applicant's training and experience in mediation or other alternative dispute resolution, if any, as well as the applicant's professional experience and location. Appointments may be limited to keep the Panel at an appropriate size and to ensure that the Panel is comprised of individuals who have broad based experience, superior skills, and qualifications from a variety of legal specialties and other professions.

3.2 Term. Mediators shall serve as members of the Panel for a term of three years unless the Mediator is advised otherwise by the Court or submits a written request to withdraw from the Panel to the Mediation Program Administrator. Reappointment will occur at the judges' discretion, and an application for reappointment is not required.

3.3 Qualifications

a. **Attorney Applicants.** An attorney applicant shall certify to the Court in the application that the applicant:

1. Is, and has been, a member in good standing of the bar of any state or of the District of Columbia for at least 5 years;

2. Is a member in good standing of the federal courts for the Central District of California;

3. Has served as a principal attorney of record in at least 3 bankruptcy cases (without regard to the party represented) from case commencement to conclusion or, if the case is still pending, to the date of the Application, or has served as the principal attorney of record for a party in interest in at least 3 adversary proceedings or contested matters from commencement to conclusion or, if the case is still pending, to the date of the Application; and

4. Is willing to undertake to evaluate or mediate at least one matter each quarter of each year, subject only to unavailability due to conflicts, personal or professional commitments, or other matters which would make such service inappropriate.

b. **Non-Attorney Applicants.** A non-attorney applicant shall certify to the Court in the Application that the applicant has been a member in good standing of the applicant's particular profession for at least 5 years, and shall submit a statement of professional qualifications, experience, training and other information demonstrating, in the applicant's opinion, why the applicant should be appointed to the Panel. Non-attorney applicants shall make the same certification required of attorney applicants contained in Paragraph 3.3.a.4.

3.4 **Geographic Areas of Service.** Applicants shall indicate on the Application all counties within the Central District in which they are willing to serve. Applicants must be willing to travel to all such counties to conduct Mediation Conferences.

4.0 ADMINISTRATION OF THE MEDIATION PROGRAM

The Chief Judge will appoint a judge of the Court to serve as the Mediation Program Administrator. The Mediation Program Administrator will be aided by assigned staff members of the Court, who will maintain and collect applications, maintain the roster of the Panel, track and compile results of the Mediation Program, and handle such other administrative duties as are necessary.

5.0 ASSIGNMENT OF MATTERS TO THE MEDIATION PROGRAM

5.1 **Assignment by Request of Parties.** A contested matter in a case, adversary proceeding, or other dispute (hereinafter collectively referred to as "Matter" or "Matters") may be assigned to the Mediation Program if requested in writing by the parties in the form attached as Official Forms 701 and 702.

5.2 **Assignment by Judge.** Matters may also be assigned by order of the Judge at a status conference or other hearing. While participation by the parties in the Mediation Program is generally intended to be voluntary, the Judge, acting *sua sponte* or on the request of a party, may designate specific Matters for inclusion in the Mediation Program. The Judge may do so over the objections of the parties. If a Matter is assigned to the Mediation Program by the Judge at a status conference or other hearing, the parties will be presented with an order assigning the Matter to the Mediation Program, and with a current roster of the Panel. The parties shall normally be given the opportunity to confer and to select a mutually acceptable Mediator and an Alternate Mediator from the Panel. If the parties cannot agree, or if the Judge deems selection by the Judge to be appropriate and necessary, the Judge shall select a Mediator and an Alternate Mediator from the Panel.

5.3 **Assignment of Non-Panel Mediators.** The Judge may, in his or her sole discretion, appoint individuals who are not members of the Panel as the Mediator and Alternate Mediator at the request of the parties and for good cause shown.

5.4 Use of Official Court Order Assigning Matter to Mediation Program. The order appointing the Mediator and Alternate Mediator and assigning a Matter to the Mediation Program shall be in the form attached as Official Form 702 ("Mediation Order"). The original Mediation Order shall be docketed and retained in the case or adversary proceeding file and copies shall be mailed, by the party so designated by the Judge, to the Mediator, the Alternate Mediator, the Mediation Program Administrator, and to all other parties to the dispute.

5.5 Existing Case Deadlines Not Affected by Assignment to Mediation. Assignment to the Mediation Program shall not alter or affect any time limits, deadlines, scheduling matters or orders in the case, any adversary proceeding, contested matter or other proceeding, unless specifically ordered by the Judge.

5.6 Disclosure of Conflicts of Interest. No Mediator may serve in any Matter in violation of the standards regarding judicial disqualification set forth in 28 U.S.C. § 455.

a. Disclosure by Attorney Mediators. An attorney Mediator shall promptly determine all conflicts or potential conflicts in the manner prescribed by the California Rules of Professional Conduct and disclose same to all parties in writing. If the attorney Mediator's firm has represented one or more of the parties, the Mediator shall promptly disclose that circumstance to all parties in writing.

b. Disclosure by Non-Attorney Mediators. A non-attorney Mediator shall promptly determine all conflicts or potential conflicts in the same manner as a non-attorney would under the applicable rules pertaining to the non-attorney Mediator's profession and disclose same to all parties in writing. If the Mediator's firm has represented one or more of the parties, the Mediator shall promptly disclose that circumstance to all parties in writing.

c. Report of Conflict Issue by Parties. A party who believes that the assigned Mediator and/or the Alternate Mediator has a conflict of interest shall promptly bring the issue to the attention of the Mediator and/or the Alternate Mediator, as applicable, and shall disclose same to all parties in writing.

d. Resolution of Conflict Issue by Judge. If the Mediator and/or the Alternate Mediator does not withdraw from the assignment, the issue shall be brought to the attention of the Judge in writing by the Mediator, the Alternate Mediator, or any of the parties in the form attached as Official Form 704. The notice shall be filed with the Court, and copies of the notice shall be mailed to the Judge, all of the parties to the dispute, their counsel, if any, the Mediator, the Alternate Mediator, and the Mediation Program Administrator. The Judge will then take whatever action(s) he or she deems necessary and appropriate under the circumstances to resolve the conflict of interest issue.

6.0 CONFIDENTIALITY

6.1 In General. No written or oral communication made, or any document presented, by any party, attorney, Mediator, Alternate Mediator or other participant in connection with or during any Mediation Conference, including the written Mediation Conference statements referred to in Paragraph 7.8 below, may be disclosed to anyone not involved in the Mediation, nor may any such communication be used in any pending or future proceeding in this Court or any other court. All such communications and documents shall be subject to all of the protections afforded by FRBP 7068. Such communication(s) may be disclosed, however, if all participants in the Mediation, including the Mediator, agree in writing to such disclosure. In addition, nothing contained herein shall be construed to prohibit parties from entering into written agreements resolving some or all of the Matter(s), or entering into or filing procedural or factual stipulations based on suggestions or agreements made in connection with a Mediation Program conference ("Mediation Conference").

6.2 Non-Confidentiality of Otherwise Discoverable Evidence. Notwithstanding the foregoing, nothing herein shall require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of a Mediation Conference.

6.3 Written Confidentiality Agreement Required. The parties and the Mediator shall enter into a written confidentiality agreement in the form attached as Official Form 708.

6.4 Effect of Recorded Settlement Agreement on Confidentiality. An oral agreement reached in the course of a Mediation Conference is not made inadmissible or protected from disclosure if all of the following conditions are satisfied:

a. The oral agreement is recorded by a court reporter, tape recorder, or other reliable means of sound recording;

b. The terms of the oral agreement are recited on the record in the presence of the parties and the Mediator, and the parties express on the record that they agree to the terms recited;

c. The parties to the oral agreement expressly state on the record that the agreement is enforceable or binding or words to that effect; and

d. The recording is reduced to writing and the writing is signed by the parties and their counsel, if any, within 3 days after it is recorded.

6.5 Effect of Written Settlement Agreement on Confidentiality. A written settlement agreement prepared in the course of a Mediation Conference is not made inadmissible or protected from disclosure if the agreement is signed by the settling parties and their counsel, if any, and either of the following conditions are satisfied:

a. The agreement provides that it is admissible or subject to disclosure, or words to that effect; or

b. The agreement provides that it is enforceable or binding or words to that effect.

6.6 Court Evaluation of Mediation Program Not Precluded by Confidentiality Provisions. Nothing contained herein shall be construed to prevent Mediators, parties, and their counsel, if any, from responding in absolute confidentiality to inquiries or surveys by persons authorized by the Court to evaluate the Mediation Program.

6.7 Confidentiality of Suggestions and Recommendations of Mediator. The Mediator shall have no obligation to make any written suggestions or recommendations but may, as a matter of discretion, provide counsel for the parties (or the parties, where proceeding in *pro per*), with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the Court or made available, in whole or in part, directly or indirectly, to the Judge.

7.0 MEDIATION PROCEDURES

7.1 Selection of Mediator. Counsel for the parties (or the parties, where proceeding in *pro per*), are encouraged to contact the proposed Mediator and Alternate Mediator as soon as practicable (preferably before submitting the Mediation Order to the judge for approval, if possible) to determine the availability of the Mediator and Alternate Mediator to serve in the Matter.

7.2 Availability of Mediator. If the Mediator is **not** available to serve in the Matter, the Mediator shall notify the parties, the Alternate Mediator, and the Mediation Program Administrator of that unavailability by mail in the form attached as Official Form 703 as soon as possible, but no later than 7 days from the date of receipt of notification of appointment. **Upon notification of the Mediator's unavailability to serve, the Alternate Mediator shall automatically serve as the Mediator without the necessity for further court order.**

7.3 Availability of Alternate Mediator. If the Alternate Mediator is **not** available to serve in the Matter, the Alternate Mediator shall notify the parties and the Mediation Program Administrator of that unavailability by mail in the form attached as Official Form 703 as soon as possible, but no later than 7 days from the receipt of notification by the Mediator, pursuant to Paragraph 7.1 above, of the Mediator's unavailability to serve.

7.4 Selection of Successor Mediator.

a. By Parties. Within 7 days of receipt of the Alternate Mediator's notification

of unavailability, the parties shall choose a mutually acceptable Successor Mediator and Successor Alternate Mediator by mail in the form attached as Official Form 702. (This is the same Official Form which is used to appoint the original Mediator and Alternate Mediator, as described in Paragraph 5.4 above. However, the word "Successor" **must** be inserted in the caption of the Mediation Order in front of the words "Mediator" and "Alternate Mediator"). The parties shall file such form with the Court and provide a courtesy copy to the Judge and the Mediation Program Administrator.

b. **By Judge.** If the parties are unable to agree on a choice of Successor Mediator and Successor Alternate Mediator, they shall notify the Judge and the Mediation Program Administrator of their inability to do so by mail in the form attached as Official Form 704. In that event, the Judge shall appoint the Successor Mediator and Successor Alternate Mediator.

c. **Use of Official Court Order Assigning Successor Mediator.** When the Successor Mediator and Successor Alternate Mediator have been chosen by the parties and/or appointed by the Judge, the Judge shall execute an order appointing the Successor Mediator and Successor Alternate Mediator in the form attached as Official Form 702. (This is the same Official Form which is used to appoint the original Mediator and Alternate Mediator, as described in Paragraph 5.4 above. However, the word "Successor" **must** be inserted in the caption of the Mediation Order in front of the words "Mediator" and "Alternate Mediator").

7.5 **Initial Telephonic Conference.** Promptly, but no later than 14 days of receipt of notification of appointment, the Mediator shall conduct a telephonic conference with counsel for the parties (or the parties, where appearing in *pro per*) to discuss ((a) fixing a convenient date and place for the Mediation Conference, (b) the procedures that will be followed during the Mediation Conference, (c) who shall attend the Mediation Conference on behalf of each party, (d) what material or exhibits should be provided to the Mediator before the Mediation Conference, and (e) any issues or maters that it would be especially helpful to have the parties address in their written Mediation Conference Statements.

7.6 **Mediation Conference Scheduling.** Also within 14 days of receipt of notification of appointment, the Mediator shall give notice to the parties of the date, time and place for the Mediation Conference. The Mediation Conference shall commence no later than 30 days following the receipt of notification by the Mediator, and shall be held in a suitable neutral setting such as the office of the Mediator, or at a location convenient and agreeable to the parties and the Mediator.

a. **Continuance of Mediation Conference.** The date for the Mediation Conference may be continued for a period not to exceed 30 days upon written stipulation between the Mediator and the parties. The stipulation need not be filed with the Court but the parties must mail a copy of it to the Judge and the Mediation Program Administrator.

b. **Additional Continuance.** At the written request of the parties and for good cause shown, the Judge may, in his or her sole discretion, approve an additional continuance of the Mediation Conference beyond the period specified in Paragraph 7.6.a.

7.7 **Mandatory Service of Mediation Order Prior to Mediation Conference.** Prior to the Mediation Conference, the parties' counsel shall serve a copy of the Mediation Order on the Mediator, Alternate Mediator, Mediation Program Administrator, and all parties to the dispute.

7.8 **Mediation Conference Statements.** Each party shall submit a written Mediation Conference statement ("Mediation Statement") directly to the Mediator and to the parties to the Mediation Conference no less than 7 days prior to the date of the initial Mediation Conference, unless modified by the Mediator.

a. **Format.** Mediation Statements shall not exceed 10 pages, excluding exhibits and attachments. Mediation Statements shall comply with all of the requirements of Court Manual Section 2-5, unless such compliance is excused by the Mediator.

b. **Confidentiality.** Mediation Statements shall be subject to all of the protections afforded by the confidentiality provisions contained herein and by FRBP 7068.

c. **Statements Not Filed with Court.** The Mediation Statements shall **not** be filed with the Court, and the Judge shall not have access to them. In addition, the phrase **"CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT"** shall be typed on the first page of the Mediation Statements.

d. **Mandatory Contents.** Mediation Statements must:

1. Identify the person(s), in addition to counsel, who will attend the Mediation Conference as representative(s) of the party, who have authority to make decisions;

2. Describe briefly the substance of the dispute;

3. Address any legal or factual issue(s) that might appreciably reduce the scope of the dispute or contribute significantly to settlement;

4. Identify the discovery that could contribute most to preparing the parties for meaningful discussions;

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

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

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

8. Attach copies of the document(s) from which the dispute has arisen (*e.g.*, contracts), or the document(s) whose availability would materially advance the purposes of the Mediation Conference.

e. **Recommended Additional Contents.** Parties may identify in the Mediation Statements the person(s) connected to a party opponent (including a representative of a party opponent's insurance carrier) whose presence at the Mediation Conference would substantially improve the prospects for making the session productive. The fact that a person has been so identified shall not, by itself, result in an order compelling that person to attend the Mediation Conference.

f. **Additional Mediation Statements for Mediator Only.** Each party may submit directly to the Mediator, for his or her eyes only, a separate confidential Mediation Statement describing any additional interests, considerations, or matters that the party would like the Mediator to understand before the Mediation Conference begins. Such Mediation Statements shall not exceed 10 pages, excluding exhibits and attachments, and shall comply with all of the requirements of Court Manual Section 2-5 unless such compliance is excused by the Mediator.

7.9 Mandatory Attendance at Mediation Conference.

a. **By Counsel.** Counsel for each party who is primarily responsible for the Matter (or the party, where proceeding in *pro per*) shall personally attend the Mediation Conference and any adjourned session(s) of that conference, unless excused by the Mediator for cause. Counsel for each party shall come prepared to discuss all liability issues, all damage issues, and the position of the party relative to settlement, in detail and in good faith.

b. **By Parties.** All individual parties, and representatives with authority to negotiate and to settle the Matter on behalf of parties other than individuals, shall personally attend the Mediation Conference and any adjourned session(s) of that conference, unless excused by the Mediator for cause. Each party shall come prepared to discuss all liability issues, all damage issues, and the position of the party relative to settlement, in detail and in good faith.

c. **By Governmental Agencies.** A unit or an agency of government satisfies

this attendance requirement if represented by a person who has, to the greatest extent feasible, authority to settle, and who is knowledgeable about the facts of the case, the governmental unit's position, and the procedures and policies under which the governmental unit decides whether to accept proposed settlements.

d. **Telephonic Appearance.** Any party or lawyer who is excused by the Mediator from appearing in person at the Mediation Conference may be required by the Mediator to participate by telephone. This decision is within the Mediator's sole discretion.

7.10 **Consequences of Failure to Attend Mediation Conference and Other Violations of Mediation Program Procedures.** Willful failure to attend the Mediation Conference and/or other violations of the Mediation Program procedures shall be reported to the Judge by the Mediator by written notice in the form attached as Official Form 705, and may result in the imposition of sanctions by the Judge. The Mediator's notice shall be filed with the Court and copies of the notice shall be mailed to the Judge, all of the parties to the dispute, their counsel, if any, and the Mediation Program Administrator. The Judge will then take whatever action(s) he or she deems necessary and appropriate under the circumstances to resolve the issue of such willful failure to attend the Mediation Conference and/or other violations of the Mediation Program procedures.

7.11 **Conduct at the Mediation Conference.** The Mediation Conference shall proceed informally. Rules of evidence shall not apply. There shall be no formal examination or cross-examination of witnesses. The Mediator may conduct continued Mediation Conferences after the initial session where necessary. As appropriate, the Mediator may:

a. Permit each party (through counsel or otherwise) to make an oral presentation of its position;

b. Help the parties identify areas of agreement and, where feasible, enter into stipulations;

c. Assess the relative strengths and weaknesses of the parties' contentions and evidence, and explain as carefully as possible the reasoning of the Mediator that supports these assessments;

d. Assist the parties, through separate consultation or otherwise, in settling the dispute;

e. Estimate, where feasible, the likelihood of liability and the dollar range of damages;

f. Help the parties devise a plan for sharing the important information and/or conducting the key discovery that will assist them as expeditiously as possible to participate in meaningful settlement discussions or to posture the case for disposition by other means; and

g. Determine whether some form of follow up to the Mediation Conference would contribute to the case development process or to settlement.

7.12 Suggestions and Recommendations of Mediator. If the Mediator makes any oral or written suggestions as to the advisability of a change in any party's position with respect to settlement, the attorney for that party shall promptly transmit that suggestion to the client. The Mediator shall have no obligation to make an written comments or recommendations, but may, as a matter of discretion, provide the parties with a written settlement recommendation memorandum. No copy of any such memorandum shall be filed with the Court or made available in whole or in part directly or indirectly, to the Judge.

8.0 PROCEDURE UPON COMPLETION OF MEDIATION CONFERENCE

8.1 Upon the conclusion of the Mediation Conference the following procedures shall be followed:

a. **If Matter Settled.** If the parties have reached an agreement regarding the disposition of the Matter, the parties, with the advice of the Mediator, shall determine who shall prepare the writing to dispose of the Matter. If necessary, the parties may, with the Mediator's consent, continue the Mediation Conference to a date convenient for all parties and the Mediator. Where required, they shall promptly submit a fully executed settlement stipulation to the Judge for approval, and shall mail a copy to the Mediation Program Administrator. The Judge will accommodate parties who desire to place any resolution of a Matter on the record during or following the Mediation Conference.

b. **Mediator's Certificate of Completion of Conference.** Within 14 days of the Mediation Conference, the Mediator shall file with the Court and serve on the parties and the Mediation Program Administrator a certificate in the form attached as Official Form 706, which shows whether there has been compliance with the Mediation Conference requirements and whether or not a settlement has been reached. Regardless of the outcome of the Mediation Conference, the Mediator will **not** provide the Judge with any details of the substance of the Mediation Conference.

c. **Confidential Evaluation.** In order to assist the Mediation Program Administrator in compiling useful data to evaluate the Mediation Program and aid the Court in assessing the efforts of the members of the Panel, the Mediator shall provide a Mediation Conference Report to the Mediation Program Administrator in the form attached as Official Form 709. The Mediation Conference Report shall **not** be filed with the Court and the Judge shall not have access to it. In addition, the phrase **"CONFIDENTIAL -- NOT TO BE FILED WITH THE COURT"** shall be typed on the first page of the Mediation Conference Report.

9.0 *PRO BONO* AND COMPENSATED SERVICE OF MEDIATORS

9.1 Mandatory *Pro Bono* Service. The Mediator shall serve on a *pro bono* basis and shall not require compensation or reimbursement of expenses for the first full day of at least one Mediation Conference per quarter per year. If, at the conclusion of the first full day of the Mediation Conference, it is determined by the parties that

additional time will be both necessary and productive in order to complete the Mediation Conference, then:

a. If the Mediator consents to continue to serve on a *pro bono* basis, the parties may agree to continue the Mediation Conference; or

b. If the Mediator does not consent to continue to serve on a *pro bono* basis, the Mediator's compensation shall be on such terms as are satisfactory to the Mediator and the parties, and shall be subject to the prior approval of the Judge if the estate is to be charged with such expense.

9.2 Compensated Service Upon Completion of Mandatory *Pro Bono* Service. After a Mediator has concluded at least one *pro bono* mediation for the particular quarter, nothing herein shall prohibit the Mediator and the parties from agreeing that the Mediator may be compensated for services rendered by the Mediator. The amount of such compensation and the terms governing the amount and payment shall be as agreed upon among the parties. If applicable, any party or parties to the mediation may apply to the Judge for authorization to compensate the Mediator from property of the estate. Nothing in this provision, however, shall require any party to compensate a Mediator other than as may be mutually agreed upon among the parties and the Mediator.

10.0 IMPLEMENTATION

10.1 The Mediation Program became effective on July 1, 1995.

10.2 Judge Barry Russell is appointed the Mediation Program Administrator.

APPENDIX IV

GUIDELINES FOR ALLOWANCE OF ATTORNEYS' FEES IN CHAPTER 13 CASES

THESE GUIDELINES GOVERN THE ALLOWANCE OF ATTORNEYS' FEES IN CHAPTER 13 CASES IN THIS DISTRICT.

AN ATTORNEY MAY RECEIVE AN ORDER APPROVING FEES UP TO THE AMOUNTS SET FORTH HEREIN WITHOUT FILING A DETAILED APPLICATION IF:

The attorney has filed with the court and served the chapter 13 trustee with the statement required pursuant to Rule 2016 of the Federal Rules of Bankruptcy Procedure and a fully executed copy of the "Rights and Responsibilities Agreement Between Chapter 13 Debtors and Their Attorneys," copies of which are available in the clerk's office and in the chapter 13 trustees' offices; and

No objection to the requested fees has been raised.

THE MAXIMUM FEE WHICH CAN BE APPROVED THROUGH THE PROCEDURE DESCRIBED HEREIN IS:

$6,000 in a case in which the debtor is engaged in a business; or

$5,000 in all other cases;

IF AN ATTORNEY SEEKS ADDITIONAL FEES OR ELECTS TO BE PAID OTHER THAN PURSUANT TO THESE GUIDELINES:

The attorney shall file and serve an application for fees in accordance with 11 U.S.C. § 330 and 331, Rules 2016 and 2002 of the Federal Rules of Bankruptcy Procedure and Local Bankruptcy Rules 2016-1 and 3015-1, as well as the "Guide To Applications For Professional Compensation" issued by the United States Trustee for the Central District of California.

In any event, on its own motion or the motion of any party in interest, the court may order a hearing to review any attorney's fee agreement or payment, in accordance with 11 U.S.C. § 329 and Rule 2017 of the Federal Rules of Bankruptcy Procedure.