

**United States Bankruptcy Court
Eastern District of Pennsylvania**



LOCAL BANKRUPTCY RULES

Current through December 1, 2009

LOCAL BANKRUPTCY RULES
OF THE
UNITED STATES BANKRUPTCY COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA

Honorable Eric L. Frank, Chief Judge

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NOTES ON ORGANIZATION AND SOURCES

1. The current compilation is an update of the Local Rules compendium last published in booklet form following the amendments that were effective on November 25, 2008.

2. The Local Bankruptcy Rules have been numbered as required by the directive of the Judicial Conference of the United States that "a numbering system for local rules . . . [must] correspond to" the F.R.B.P. In addition, the organization, content, and numbering of the Local Bankruptcy Rules conforms substantially to the Uniform Numbering System for Local Bankruptcy Rules, which has been recommended to the district courts by the Advisory Committee on Bankruptcy Rules.

3. With the exception of the 2006, 2008 and 2009 Explanatory Notes, all of the "Source" materials and Explanatory Notes included in this compilation were drafted by the Local Rules Advisory Committee of the Eastern District of Pennsylvania Bankruptcy Conference in connection with the advisory role that organization played in the rules adoption process. The 2006, 2008 and 2009 Explanatory Notes were drafted by the Board of Bankruptcy Judges.

Amendments to Local Bankruptcy Rules and Forms

<u>Amended or New Rule/Form</u>	<u>Effective Date</u>
Local Rule 1002-2	December 1, 2009 ¹
Local Rule 1002-5	December 1, 2009
Local Rule 1007-1	December 1, 2009
Local Rule 1007-2	December 1, 2009
Local Rule 1019-1	December 1, 2009
Local Rule 2002-1	December 1, 2009
Local Rule 2016-1	December 1, 2009
Local Rule 2016-5	December 1, 2009
Local Rule 3015-1	December 1, 2009
Local Rule 3015-2	December 1, 2009
Local Rule 3016-1	December 1, 2009
Local Rule 3021-1	December 1, 2009
Local Rule 4002-1	December 1, 2009
Local Rule 4003-1	December 1, 2009
Local Rule 4004-1	December 1, 2009
Local Rule 5080-1	December 1, 2009
Local Rule 6004-1	December 1, 2009
Local Rule 8001-1	December 1, 2009
Local Rule 9013-1	December 1, 2009
Local Rule 9014-3	December 1, 2009

¹ Most of the amendments effective December 1, 2009 were designed to conform the deadlines in the local rules to the time computation amendments to Fed. R. Bankr. P. 9006 (effective December 1, 2009).

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Local Rule 9015-1	December 1, 2009
Local Rule 9019-3-1	December 1, 2009
Local Rule 9076-1	December 1, 2009

Local Rule 1007-3	November 25, 2008
Local Rule 2016-2	February 26, 2008
Local Bankruptcy Form 2016-2A	February 26, 2008
Local Bankruptcy Form 2016-2B	February 26, 2008
Local Bankruptcy Form 2016-2C	February 26, 2008
Local Rule 4004-1	February 26, 2008
Local Rule 5003-1	February 26, 2008
Local Rule 9014-2	February 26, 2008

Local Rule 5001-1	December 13, 2006
Local Rule 9076-1	December 13, 2006

Local Rule 1002-2	May 16, 2005
Local Bankruptcy Form 1002-2A	May 16, 2005
Local Bankruptcy Form 1002-2B	May 16, 2005
Local Rule 1002-3	May 16, 2005
Local Rule 1002-4	May 16, 2005
Local Rule 2016-5	May 16, 2005
Local Rule 2016-2	May 16, 2005
Local Bankruptcy Form 2016-2	May 16, 2005

Local Rule 2090-1(c)	April 5, 2004

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Local Rule 2016-2	February 23, 2004

Local Rule 5005	April 1, 2003

Local Rule 2090-1(c)	February 1, 2003
Local Bankruptcy Form 9014-3	February 1, 2003

Local Rule 2002-1(b)	December 11, 2000
Local Rule 7016-1(a)	December 11, 2000
Local Rule 7026-1(a)	December 11, 2000
Local Rule 9014-3(e)-(k)	December 11, 2000

Local Rule 1017-2(b)	March 1, 2000
Local Rule 9019-2	March 1, 2000

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Local Rule 1001-1

Local Rules—General

(a) *Scope.* The Local Bankruptcy Rules and Local Bankruptcy Forms are adopted to govern the practice and procedure before the United States Bankruptcy Court for the Eastern District of Pennsylvania.

(b) *Short Title.* These rules shall be cited and referred to herein as the Local Bankruptcy Rules (or "L.B.R.") and the forms as the Local Bankruptcy Form (or "L.B.F.").

(c) *Construction.* These rules and forms shall be construed in a manner consistent with the Federal Rules of Bankruptcy Procedure, referred to herein as "F.R.B.P.," and Official Bankruptcy Forms.

(d) *Effective Date.* The L.B.R. and L.B.F. shall become effective on the thirtieth day following promulgation and shall govern the practice and procedure before the United States Bankruptcy Court for the Eastern District of Pennsylvania for all pending and future cases.

(e) *Rescission.* On the effective date of the L.B.R. and L.B.F., all previously enacted local rules and local forms are rescinded.

SOURCE

Subdivisions (a)-(c). 97 L.B.R. 1001.1

Subdivisions (d) and (e). 97 L.B.R. 1001.2.

Local Rule 1002-1

Petition—General

(a) *Number of Copies.* An original petition filed with the clerk shall be accompanied by the following number of copies of the petition:

- (1) three copies of a petition requesting relief under chapter 7, 12, or 13;
- (2) four copies of a petition requesting relief under chapter 9 or 11, other than a petition of a railroad under subchapter IV of chapter 11; or
- (3) nine copies of a petition of a railroad under subchapter IV of chapter 11.

(b) *Evidence of Authority to File.* If the debtor is other than an individual, evidence of authority to initiate the case shall be filed with the petition.

SOURCE

Subdivision (a). 97 L.B.R. 1002.1(a) and (b).

Subdivision (b). 97 L.B.R. 1002.2(c).

Local Rule 1002-2

Complex Chapter 11 Cases: General

(a) *Complex Chapter 11 Case.* A complex chapter 11 case is a chapter 11 case in which the total debt in the case is \$10 million or more and either

- (1) the debtor's debt or equity securities are publicly traded, or
- (2) there are 100 or more parties in interest in the case.

(b) *Statement of Qualification for Complex Chapter 11 Case Status: Administration.* A chapter 11 debtor may file with the petition a Statement of Qualification for Complex Chapter 11 Case Status, substantially in the form of L.B.F. 1002-2A, that sets forth the reasons why the debtor's chapter 11 case qualifies under subdivision (a) as a complex chapter 11 case. If a Statement of Qualification is filed with the petition, the case shall be administered as a complex chapter 11 case, unless the court orders otherwise on the court's own motion, or in response to an objection made under subdivision (e), or a later motion. A Motion for the Scheduling of an Expedited Hearing may be combined with the Statement of Qualification.

(c) *Expedited Hearing.* If the debtor, within 10 days of filing the chapter 11 case that is being administered as a complex chapter 11 case, files a motion for the Scheduling of an Expedited Hearing, the judge who is assigned the chapter 11 case shall use the judge's best efforts to schedule an expedited hearing as soon as appropriate under the circumstances of the case but not more than 3 business days after the filing of the Motion for the Scheduling of an Expedited Hearing, unless the debtor requests a later date. If the assigned judge is unavailable, the Emergency Judge serving pursuant to L.B.R. 5001-1(a) shall use the judge's best efforts to arrange for an expedited hearing within the three (3) day period. The courtroom deputy shall promptly inform the debtor of the date and time of the expedited hearing and what motions and applications will be heard (the Expedited Hearing Agenda).

(d) Notice of Expedited Hearing: Service of Motions and Applications.

(1) Service. The debtor shall serve a Notice of Expedited Hearing substantially in the form of L.B.F. 1002-2B, copies of the motions and applications that will be heard at the Expedited Hearing, and the proposed order that accompanies each motion and application on the following parties, or, if represented, their counsel:

- (i) the United States trustee;
- (ii) the Commonwealth of Pennsylvania, Department of Labor and Industry;
- (iii) the Commonwealth of Pennsylvania, Department of Revenue;
- (iv) any prepetition committee of unsecured creditors;
- (v) any official committee and the 20 largest unsecured creditors of the debtor;
- (vi) the Internal Revenue Service and the City of Philadelphia at the address shown on the list maintained by the Clerk in accord with F.R. Bank. P. 5003 (c); and
- (vii) any entity whose interest would be directly, materially, and adversely affected if the relief requested in the motion were granted and whose interests are not adequately represented by persons on whom service is otherwise required.

On the day the debtor is notified by the court of the date of the Expedited Hearing, the debtor, if feasible, shall make service under this subdivision. If service is not made on the day the debtor is notified by the court of the date of the Expedited Hearing, service shall be made no later than the next day.

(2) Supplemental Notice. On the day the debtor is notified of the date of the Expedited Hearing, the debtor shall give notice by telephone, fax, or email of the date, time, and place of the Expedited Hearing and the Expedited Hearing Agenda to any of the parties required to be served under subdivision (d)(1) who will not be served until the next day.

(3) Certificate of Service and Notice. The debtor shall file a certificate of service and notice prepared as required by L.B.R. 9014-4 before the Expedited Hearing or with the court at the Expedited Hearing.

(4) Adequacy of Service or Notice. If the court determines that for any motion or application on the Expedited Hearing Agenda the service or notice completed in advance of the Expedited Hearing is inadequate, the court may deny some or all of the relief requested or continue the hearing.

(e) *Objection to Statement of Qualification: Response to Motion or Application.* L.B.R. 9013-1(e) and L.B.R. 9014-3(i), which require that any written objection to an application or a written answer or objection to a motion be filed within a specified period, do not apply to an application or motion that is scheduled to be heard at the Expedited Hearing. An objection to the debtor's Statement of Qualification and an objection or answer to an application or motion scheduled to be heard at an Expedited Hearing may be filed before the Expedited Hearing or with the court at the Expedited Hearing or made orally at the Expedited Hearing.

(f) *Advance Notice to and Service on the United States Trustee.*

(1) Notice to United States Trustee. Counsel for the debtor, with or without naming the debtor or including information that identifies the debtor, shall, if feasible, advise the United States Trustee of a debtor's intent to file a complex chapter 11 case and of the motions and applications the debtor intends to request be heard at an Expedited Hearing. Counsel shall give this notice to the United States Trustee as soon as practical, which ordinarily should be at least 48 hours before the chapter 11 case is filed.

(2) Service on United States Trustee. The debtor shall hand deliver, if feasible, the applications and motions (in substantially final form) that the debtor intends to request be heard at an Expedited Hearing to the United States Trustee at least 24 hours before the filing of the chapter 11 case.

(3) Certificate of Service and Notice. The debtor shall file a certificate of service and notice prepared as required by L.B.R. 9014-4 before the Expedited Hearing or with the court at the Expedited Hearing.

(g) *Notice of Entry of Orders.* On the day the debtor is notified of the entry of the order disposing of a matter heard at the Expedited Hearing, the debtor, if feasible, shall serve a copy of the order on the parties required to be served under subdivision (d)(1). If service is not made on the day the debtor is notified of entry of the order, service shall be made no later than the next day.

Committee's Explanatory Note

Subdivision (a) identifies the criteria to be used in determining whether a chapter 11 case qualifies for complex chapter 11 case status. A court on the motion of a debtor may order that even though the chapter 11 case is not a complex chapter 11 case under subdivision (a) the case shall be administered as a complex chapter 11 case.

Subdivisions (b) and (c). Time is important at the beginning of a complex chapter 11 case. Preservation of the business and the likelihood of a successful reorganization may depend, in part, on the debtor being able to have certain matters heard and determined by the court shortly after the complex chapter 11 case is filed. Under the ordinary practice, motions are not heard very quickly. L.B.R. 9014-3(h) allows 15 days for the filing of an answer to a motion. Thus a hearing on a motion is after the 15-day period expires. Moreover, L.B.R. 5070-1(a) provides that a hearing on a motion will be scheduled on the presiding judge's next available list.

A debtor may attempt to obtain an earlier hearing date by filing a motion for expedited consideration under L.B.R. 5070-1(f) that demonstrates "with particularity the reasons supporting the need for expedited consideration." How long it will take for the court to rule on the motion and, if the motion is granted, when the hearing will be held are uncertain. In addition, it is necessary for the court in each case to enter an order governing service, notice, and other procedural matters that must be addressed when a motion is heard on an expedited basis.

The criteria in subdivision (a) are designed to identify as a complex chapter 11 cases those cases where there is a high probability that there is ample reason why expedited consideration is needed and, therefore, appropriate. Subdivisions (b) and (c) create a simplified process for obtaining an expedited hearing at the very beginning of a complex chapter 11 case and other subdivisions of this rule address service, notice, and other procedural matters.

L.B.R. 5070-1(f) permits the filing of a motion for the Scheduling of an Expedited Hearing at any time. Subdivision (c) provides that if the debtor in a case being administered as a complex chapter 11 case files a motion for the Scheduling of an Expedited Hearing within 10 days of the filing of the chapter 11 case, the court will, if possible, schedule an expedited hearing within three business days of the filing of the motion.

Under subdivision (b), a case will be administered as a complex chapter 11 case if the debtor files with the petition a Statement of Qualification for Complex Chapter 11 Case Status. The court, however, may on its own motion in an appropriate case determine that even though a Statement of Qualification has been filed, the case should not be administered as a complex chapter 11 case. Moreover, subdivision (e) specifically authorizes a in party interest to orally object to the debtor's Statement of Qualification at the Expedited Hearing or to file an objection with the clerk before the Expedited Hearing or with the court at the Expedited Hearing. A Motion to Terminate Complex Chapter 11 Case Status may be filed at any time after the Expedited Hearing.

Subdivision (d) imposes additional service obligations on a debtor who obtains an expedited hearing under this rule.

Subdivision (d)(1) requires service on the same entities that are required to be served under L.B.R. 9014-3(f), which governs general motion practice, and also follows L.B.R. 9014-3(f) by requiring that service be completed, if feasible, on the day the court informs the debtor of the Expedited Hearing date or, at the latest, the next day. If service cannot be completed on the

day the court informs the debtor of the date of the hearing, the debtor is required by subdivision (d)(2) to give supplemental notice of both the hearing date and the hearing agenda by telephone, fax, or e-mail. The supplemental notice must be given on the day the court informs the debtor of the Expedited Hearing date. F.R.B.P. 9014(b) and 7004 and F.R.Civ.P. 4 specify how service of a motion is made. Because of the short time available, the debtor will either have to deliver the motion to the parties that must be served or use one of the overnight carriers to complete service.

Even if the debtor completes the service required by this rule, the court may find that the service and notice required by this rule are not adequate for a particular motion or application, or for a particular party. In addition, the debtor may fail to complete service and notice as required by this rule. Subdivision (d)(4) takes account of these and other possibilities by stating that a motion or application may have to be denied in whole or in part or a motion or application may have to be continued to a later hearing date if the service or notice is inadequate.

Subdivision (e) specifically makes L.B.R. 9013-1(e) and L.B.R. 9014-3(h), which require the filing of a written response to an application or a motion, inapplicable to a response to an application or a motion that is scheduled to be heard at an Expedited Hearing. Because of the short time period between service of the notice of the Expedited Hearing and the Expedited Hearing, the subdivision authorizes an oral response at the Expedited Hearing as well as the filing of a written response before the Expedited Hearing or with the court at the Expedited Hearing.

Subdivision (f)(1) requires counsel for a debtor to notify the United States Trustee before the chapter 11 case is filed that a debtor will be filing a complex chapter 11 case. Copies of the substantive motions and applications that the debtor will request be heard at the expedited hearing are to be delivered to the United States Trustee at least 24 hours before the complex chapter 11 case is filed.

Subdivision (g) requires the debtor to serve copies of orders entered on matters heard at the Expedited Hearing on the parties listed in subdivision (d)(1) who were served with the motion and applications. Rule 5(b), F.R.Civ.P. prescribes the manner of service.

LOCAL BANKRUPTCY FORM 1002-2A

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: : Chapter 11
 :
 :
Debtor : Bankruptcy No.

STATEMENT OF QUALIFICATION AS COMPLEX
CHAPTER 11 CASE

This chapter 11 case was filed on _____, 20____. The undersigned attorney for the debtor believes that this case qualifies under Local Bankruptcy Rule 1002-2 as a complex chapter 11 case because the debtor’s total debt exceeds the minimum requirement under Local Bankruptcy Rule 1002-2 of total debt in the amount of \$10 million, and

- _____ the debtor’s debt securities are publicly traded
- _____ the debtor’s equity securities are publicly traded, and/or
- _____ there are 100 or more parties in interest in the case.

Date: _____ 20_____

Signed: _____

Attorney for the Debtor

[Attorney’s name], Esq.
[Firm Name].....

[Address].....
[Phone No].....
[Fax No.].....

The Statement may also be signed by a chapter 11 individual debtor, or by an authorized person if the chapter 11 debtor is a corporation, limited liability company, partnership, or other business entity. The form should be adapted to properly reflect the status of the person signing the Statement.

LOCAL BANKRUPTCY FORM 1002-2B

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re : Chapter

Debtor : Bankruptcy No.

* * * * *

NOTICE OF DATE OF EXPEDITED HEARING, MATTERS THAT WILL BE HEARD AT
THE EXPEDITED HEARING, AND HOW TO RESPOND

(Name of debtor) has filed a chapter 11 case, a Statement of Qualification for Complex Chapter 11 Case Status, and a motion for Scheduling an Expedited Hearing.

The chapter 11 case is being administered under L.B.R. 1001-(2) as a Complex Chapter 11 case.

An Expedited Hearing is scheduled to be held before the Honorable (name of bankruptcy judge) on XX/XX/XX, at _____ in Courtroom _____, United States Bankruptcy Court, (address of Bankruptcy Court). At the Expedited Hearing, the court will consider the Debtor's motion(s) and application(s) that are listed below:

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

1. If you do not want the court to grant the relief sought in a motion or an application, or if you to object to the Debtor's chapter 11 case being administered as a Complex Chapter 11 case, or if you want the court to consider your views on a motion or an application, then you or your attorney must

- (a) file an answer or objection explaining your position at (address of bankruptcy clerk's office) before the start of the Expedited Hearing on XX/XX/XX; or

- (b) come to the Expedited Hearing on XX/XX/XX and either
- (i) file an answer or objection explaining your position by delivering it to the court, or
- (ii) orally present an answer or objection explaining your position.

If you mail your answer to the bankruptcy clerk’s office for filing, you must mail it early enough so that it will be received on or before the start of the Expedited Hearing on XX/XX/XX.

2. If you file an answer or objection with the bankruptcy clerk’s office or with the court at the Expedited Hearing, you must also provide a copy of your answer or objection to the Debtor’s attorney. You may have it delivered by mail or other means of delivery to the Debtor’s attorney at the address shown below before the date of the Expedited Hearing or you may deliver it to the Debtor’s attorney at the Expedited hearing.

{Attorney’s name]
[Firm name]
[Address]
[Phone No.].....
[Fax No.].....

[If applicable, name and address of others to be served.]

3. If you or your attorney do not take the steps described in paragraphs 1 and 2 above, the court may enter an order granting the relief requested in a motion or an application.

4. Copies of motion(s) and applications that will be heard at the Expedited Hearing are enclosed. [or will be delivered separately].

5. Unless the court orders otherwise, the hearing will be an evidentiary hearing at which witnesses may testify with respect to disputed material factual issues in the manner directed by Fed. R. Bankr. P. 9014(d).

Date.....

Local Rule 1002-3

Complex Chapter 11 Cases: Selection of Motions And Applications for Expedited Hearing

(a) Criteria. A motion or application will be scheduled for an Expedited Hearing held pursuant to L.B.R. 1002-2 only if it appears that an expedited ruling will either (i) materially enhance the possibility that the debtor will be able to continue to operate the business, (ii) contribute to the preservation of the assets of the estate, or (iii) facilitate the orderly and efficient administration of the case.

(b) Typical Motions. The following are examples of motions or applications that ordinarily will be scheduled for an Expedited Hearing if the debtor requests:

Administrative Matters

1. Motion for Joint Administration of Related Chapter 11 Cases;
2. Motion for Approval of Debtor Serving Notice of the Section 341 Creditors' Meeting;
3. Motion for Approval of Notice Procedures;
4. Motion for Approval of Claims Agent or Notice Agent;
5. Motion under L.B.R. 2090-1 for Admission of an Attorney *Pro Hac Vice*; and
6. Motion for Order Scheduling Omnibus Hearing Dates.

Financing

7. Motion for Interim Authorization of Use of Cash Collateral;
8. Motion for Interim Authorization of Post-Petition Borrowing;
9. Motion for Approval of Debtor's Continuing Use of Existing Bank Accounts, Business Forms, and Cash Management System, or Related Relief; and
10. Motion for Approval of Interim Modified Section 345 Investment Procedures and for Scheduling of Hearing on Permanent Modified Section 345 Investment Procedures;

Operation of the Debtor's Business

11. Motion for Approval to Pay Pre-Petition Employee Wage Claims, Benefits, and Related Taxes to all Employees, Independent Contractors, and Tax Authorities;
12. Motion for Approval to Pay Pre-Petition Trust Fund and/or Priority Taxes;
13. Motion for Approval to Pay or Honor Obligations to Customers;
14. Motion for Approval to Pay Other Pre-Petition Claims;
15. Motion for Order Authorizing and Directing Banks to Honor Certain Pre-Petition Checks; and
16. Motion for Interim Relief and for Scheduling of Hearing on Determination of Adequate Assurance to Utilities.

(c) Other Motions. A debtor's motion for an Expedited Hearing may request that motions or applications that are not listed in subdivision (b) be heard at the Expedited Hearing.

Committee's Explanatory Note

Subdivision (a) sets forth three criteria for determining whether a motion or application should be scheduled to be heard at an Expedited Hearing.

Subdivision (b) lists motions that will ordinarily be scheduled for an Expedited Hearing because these motions will satisfy one or more of the subdivision (a) criteria. It is important to note that a motion seeking the court's approval of the use of cash collateral, post-petition borrowing, or adoption of modified Section 345 investment procedures will be scheduled for the expedited hearing only if the motion requests interim authorization of the proposed relief. The debtor may combine in one motion a request for interim authorization and a request for final relief, for example, interim authorization to borrow under a post-petition line of credit and a request for final approval of the line of credit.

Subdivision (c) makes it clear that even if a motion or application is not listed in subdivision (b), the debtor may request that the motion or application be scheduled to be heard at the expedited hearing.

Local Rule 1002-4

Complex Chapter 11 Cases: Interim Cash Collateral and Borrowing Motions

A motion for Interim Authorization to Use Cash Collateral or Interim Authorization of Post-Petition Borrowing shall have a separate section at the beginning of the motion that lists in bold face type any of the following terms that are included in either the proposed order that accompanies the motion or in the loan agreement that will be entered into by the debtor if the borrowing motion is granted:

1. Cross-collateralization clauses that provide that pre-petition debt is secured by post-petition assets that the secured party would not otherwise have a security interest in by virtue of its pre-petition security agreement.
2. Provisions or findings of fact which relate to the validity, perfection, or amount of the secured party's lien or the amount of outstanding debt and are binding on parties in interest, other than the debtor or signatories to any agreement for which court approval is requested.
3. Provisions or findings of fact which relate to the relative priorities of a secured party's lien and the liens held by persons who are not parties to the loan transaction, for example, an order providing that the secured party's lien is a first priority lie, and are binding on parties in interest, other than the debtor or signatories to any agreement for which court approval is requested.
4. Waivers of rights under Section 506(c).
5. Provisions that operate, as a practical matter, to divest the debtor in possession of any discretion in the formulation of a plan or administration of the estate or limit the debtor's right of access to the court to seek relief under the Code or other applicable law.
6. Releases of liability for the creditor's alleged pre-petition torts or breaches of contract.
7. Waivers of avoidance actions arising under the Code or other applicable law.
8. Automatic termination or modification of the Section 362 stay on default, conversion to chapter 7, or appointment of a trustee.
9. Waivers of the procedural requirements of applicable non-bankruptcy law governing foreclosure.

10. Adequate protection provisions that create liens or claims for relief arising under Sections 506(c), 544, 545, 547, 548, and 549.
11. Waivers of the debtor's right to request bankruptcy court approval under Section 363(c)(2)(B) of the debtor's use of cash collateral without the secured party's consent that are triggered by default or expiration of a prior cash collateral order.
12. Findings of fact on matters extraneous to the court's approval of the motion. (For example, if the debtor seeks to borrow on a secured basis, a finding that the debtor cannot obtain unsecured credit is appropriate but a "finding," binding on all parties, that the lender acted in good faith in declaring the pre-petition loan in default is not appropriate.)
13. Granting of a lien to a post-petition lender that is given priority over a pre-petition lien on the same collateral.

Committee's Explanatory Note

Motions for interim authorization to use cash collateral and to borrow post-petition present particularly sensitive issues. This rule requires the debtor to disclose at the beginning of these motions whether any of the terms listed in the rule are included in the proposed order or loan agreement. This calls the attention of the court and the parties to the particularly noteworthy aspects of the proposed order or loan agreement.

Local Rule 1002-5

Complex Chapter 11 Cases: Automatic Reconsideration

(a) *Automatic Reconsideration.* The court shall reconsider an order entered on a matter heard at an Expedited Hearing held pursuant to L.B.R. 1002-2, other than an order entered pursuant to 11 U.S.C. Sections 363 and 364 relating to the use of cash collateral or approval of post-petition financing, if a timely motion for reconsideration of the order is filed. A motion for reconsideration is timely filed if it is filed within 30 days of entry of the order, or, if F.R.B. P. 9023 applies to the motion, the motion is filed within the time prescribed by Rule 59(e).

(b) *Expedited Schedule.* If requested by the movant for reconsideration, the reconsideration shall be on an expedited basis

(c) *Burden of Proof.* The party who had the burden of proof on the motion or application that resulted in the entry of the order being reconsidered also has the burden of proof on reconsideration of the order.

Committee's Explanatory Note

Subdivision (a) provides that if a timely motion for reconsideration of an order disposing of a matter heard at the expedited hearing is filed, the court will automatically reconsider the motion. A motion for reconsideration is timely filed under subdivision (a) if it is filed within 30 days of entry of the order, unless the order is subject to F.R.Civ. P. 59, which requires that the motion be filed within 10 days. Under F.R.B.P. 9023, F.R.Civ. P. 59, which governs new trials and motions to alter or amend a judgment, applies to appealable orders that are entered in cases under the Code. See F.R.B.P. 9001 (7).

Once the motion for reconsideration is filed, the movant must obtain a date for the reconsideration hearing and then make service and otherwise comply with L.B.R. 9014-3.

While scheduling an expedited hearing almost immediately after a complex chapter 11 case is filed increases the likelihood the debtor will be able to preserve the business and confirm a plan of reorganization, at that very early stage of the case creditors and other parties in interest may not yet understand the debtor's financial condition or business prospects or be able to evaluate the legal issues raised by the matters heard at the Expedited Hearing. In addition, some parties may find it difficult for a variety of reasons to fully participate at the Expedited Hearing. Automatic reconsideration of orders entered on the matters heard at the Expedited Hearing, as provided by this rule, assures parties in interest that there will no procedural impediments to their presenting to the court their reasons why the order being reconsidered should not have been entered.

Subdivision (b). If the movant requests, a motion for reconsideration will be scheduled on an expedited basis

Subdivision (c). Whoever had the burden of proof when a motion or application was originally heard, also has the burden of proof on the motion for reconsideration.

Local Rule 1007-1

Lists, Schedules, Statements, Affidavit, and Notice: Number of Copies

(a) *Chapter 11 and 12 Cases.*

(1) Additional Lists. In a chapter 11 and chapter 12 case, in addition to the documents required by F.R.B.P. 1007, the debtor shall file with the petition in a voluntary case and within 14 days after entry of the order for relief in an involuntary case:

(b) a list of the name and address (including zip code) of each creditor who the debtor knows is a member of any committee organized by creditors before the commencement of the case; and

(c) a list of the name and address (including zip code) of each creditor who the debtor knows claims a security interest in cash collateral, as defined by § 363(a) of the Code; or

(d) if the debtor is unable to file either of the lists, the debtor, a partner of a partnership debtor, or a responsible officer of a corporate debtor shall file an affidavit setting forth with particularity the reason it is unable to file a list or lists.

(2) Extension to File Additional Lists. If an affidavit permitted under subdivision (a)(1)(c) is filed by the debtor or on behalf of the debtor and the debtor is engaged in business, the debtor shall file the lists required by subdivision (a)(1) within 14 days after the filing of the petition in a voluntary case or within 30 days after entry of an order for relief in an involuntary case.

(b) *Statement of Operations*. In a chapter 11 case, if the debtor is engaged in business, and in a chapter 12 case the debtor shall file within 14 days after the filing of the petition in a voluntary case, or within 14 days after entry of an order for relief in an involuntary case, if prepared and available, a statement of operations listing receipts and disbursements by category for the most recent month or quarter and for the most recent fiscal year prior to the commencement of the case.

(c) *Cash Collateral*. In a chapter 11 case, the debtor shall notify each creditor known to the debtor to claim a security interest in cash collateral, as defined by § 363(a) of the Code, of the filing of the petition in a voluntary case or of the entry of an order for relief in an involuntary case within 1 day of the filing of the petition or the entry of the order for relief. The debtor shall promptly file a certificate of notice.

(d) *Number of Copies*. The number of copies of the schedules, statements and lists required to be filed under F.R.B.P. 1007 and this rule shall correspond to the number of copies of the petition required by L.B.R. 1002-1.

SOURCE

Subdivisions (a)-(c) are substantially the same as 97 L.B.R. 1007.1.

Subdivision (d) is the same as 97 L.B.R. 1002.1(c).

Local Rule 1007-2

Matrix List of Creditors

(a) *Matrix List of Creditors.* A matrix list of creditors is a centered single column list of the name and complete address of each creditor.

(b) *Voluntary Case.* In a voluntary case, the debtor shall file a Matrix List of Creditors with the petition.

(c) *Involuntary Case.* In an involuntary case, the debtor shall file a Matrix List of Creditors within 14 days of the entry of the order for relief.

(d) *Chapter 13 Case: Copies.* In a chapter 13 case the debtor shall file an additional copy of the Matrix List of Creditors and any supplement.

(e) *Supplement to Matrix List of Creditors.* The Matrix List of Creditors is supplemented by filing a separate page or pages prepared in accord with subdivision (a) of this rule. Each page of the filing shall contain the following legend at the bottom right side of the page:

Supplement to Matrix List of Creditors
Dated: [date supplement filed]
Page No. ___ of ___ page(s)

The originally filed Matrix List of Creditors and any supplement shall constitute the Matrix List of Creditors for the purpose of these rules.

(f) *No Duty to Supplement.* A debtor does not have to file a supplement to include a party who has filed a request for notices under F.R.B.P. 2002(j).

(g) *List of Creditors.* A copy of the Matrix List of Creditors prepared pursuant to L.B.R. 1007-2 may be filed by the debtor as the list of creditors required under F.R.B.P. 1007(a)(1) or 1007(a)(2).

SOURCE

This rule is derived from 97 L.B.R. 1007.2. Subdivisions (a) and (f) set forth the format for the Matrix List of Creditors and for a supplement to the Matrix which adds creditors. The Matrix must be filed with the petition in all voluntary cases in order to facilitate prompt administration of the case and the noticing of the meeting of creditors.

Subdivision (g) is new.

Local Rule 1007-3

Submission of Payment Advices or Other Evidence of Payment Received Within 60 Days Before the Date of the Filing of the Petition

(a) In lieu of filing with the court the documents required by § 521(a)(1)(b)(iv), a debtor may submit to the trustee and the United States Trustee in electronic format by e-mail either

- (1) the required documents, or
- (2) the documents available to the debtor accompanied by a statement that sets forth the reason why some payment documents have not been submitted and the debtor's estimate of and other evidence, if any, of the payments received within the 60 day time period.

(b) If the trustee has not been appointed on the day the schedules are filed, the submission shall be transmitted to the trustee promptly after the trustee is appointed.

(c) Upon the request of any creditor, the debtor shall promptly provide a copy of the submission to the creditor.

SOURCE

This rule is new.

Local Rule 1009-1

Amendments to Voluntary Petition and Schedule: Adding a Creditor

(a) *Amendment of Voluntary Petition or Schedule.* An amendment to a voluntary petition or schedule shall be served on the trustee, any official committee, the United States trustee, and all parties affected by the amendment. The amendment shall be accompanied by a certification of service. If there are no parties affected by the amendment, the certification of service shall so state.

(b) *Addition of Creditor.*

- (1) An amendment adding a creditor to the debtor's schedule shall be served on that creditor. If the creditor is added after the notice of the § 341 meeting has been mailed, a copy of the notice of the § 341 meeting and any other notices which have been served on all creditors in the case shall be served by the debtor's counsel with the amendment.

- (2) An amendment adding a creditor shall be accompanied by the fee prescribed by the Administrative Office of the United States Court or by an application under L.B.R. 5080-1 to waive that fee due to the debtor's inability to pay the fee.

(c) *Supplement to Matrix List of Creditors.* An amendment filed by the debtor adding a creditor to the schedule or a request by the debtor to add an interested party shall be accompanied by a Supplement to the Matrix List of Creditors prepared in accord with L.B.R.1007-2(e) which lists the added creditors.

SOURCE

This rule is the same as 97 L.B.R. 1009.1

Local Rule 1017-1

Conversion of Case

(a) *Debtor's Notice of Conversion.* On the day a notice of conversion under §§ 1208(a) or 1307(a) is filed, the debtor shall serve a copy of the notice on the trustee.

(b) *Certain Motions of Debtor to Convert.* A motion of a debtor to convert a case to a case under another chapter under §§ 706(a) or 1112(a) of the Code is governed by L.B.R. 9014-2 (Motions Determined Without Hearing).

(c) *Other Motions to Convert.* Except as provided in subdivision (b), a motion to convert a case to a case under another chapter is governed by L.B.R. 9014-3. The notice of the motion, hearing date, and the time to file an answer required to be given under L.B.R. 9014-3(h) shall be given to those on the Matrix List of Creditors instead of to those on the Clerk's Service List.

(d) *Notice of Conversion.* If a case is converted from one chapter to another, the clerk shall provide timely notice of the conversion of the case to those on the Matrix List of Creditors and the Clerk's Service List, the United States trustee, and the trustee.

SOURCE

Subdivision (a) is new. Under F.R.B.P. 1017(d), a debtor who files a notice of conversion of a case with the court pursuant to §§ 1208(a) or 1307(a) does not have to notify anyone that the case has been converted. Subdivision (a) requires that notice of conversion of the case be given to the trustee.

Subdivision (b) is similar to 97 L.B.R. 1017.3(a), except that a motion must be filed rather than an application.

Subdivision (c) is similar to 97 L.B.R. 1017.3(b), but this rule also applies to motions filed by a person other than the debtor.

Subdivision (d) is the same as 97 L.B.R. 1019.1.

Local Rule 1017-2

Dismissal of Case

(a) *Certain Motions of Debtor to Dismiss.* A motion of a debtor to voluntarily dismiss a case under §§ 1208(b) or 1307(b) of the Code is governed by L.B.R. 9014-2 (Motions Determined Without Hearing). The motion shall be served on the trustee and the United States trustee.

(b) *Other Motions to Dismiss.* Except as provided in subdivision (a), a motion to dismiss a case is governed by L.B.R. 9014-3. L.B.R. 9014-3(h) does not apply to motions to dismiss under either § 707(a)(3) or § 707(b). The notice of motion, hearing date, and time to file an answer required to be given under L.B.R. 9014-3(h) shall be given to those on the Matrix List of Creditors instead of to those on the Clerk's Service List.

(c) *Notice of Dismissal.* If a case is dismissed, the clerk shall provide timely notice of the dismissal of the case to those on the Matrix List of Creditors and the Clerk's Service List, the United States trustee, and the trustee.

(d) *Debtor's Address.* If the case is dismissed, the debtor shall advise the trustee within 10 days of entry of the order of dismissal of the address to which any refund of money paid to the trustee may be made.

SOURCE

Subdivision (a) is the same as 97 L.B.R. 1017.1(a) except that the debtor must file a motion rather than an application.

Subdivision (b). Amended pursuant to the February 28, 2000, Order of the U.S. District Court for the Eastern District of Penn. and effective March 1, 2000.

Subdivisions (c) and (d) are derived from 97 L.B.R. 1017.1(c) and (d).

Local Rule 1019-1

Conversion: Filings Following

(a) *Conversion to Chapter 7.* Within 14 days after entry of an order converting a case under another chapter to a chapter 7 case, the debtor shall file

- (1) the original and three copies of the schedule of post petition debts, if any, which arose subsequent to the filing of the petition but prior to the conversion to chapter 7; and
- (2) if appropriate, a supplement to the Matrix List of Creditors prepared in accord with L.B.R. 1007-2(e).

(b) *Conversion to Chapter 13.* Within 14 days after entry of an order converting a case under another chapter to a chapter 13 case, the debtor shall file

- (1) the original and three copies of the schedule of post petition debts, if any, which arose subsequent to the filing of the petition but prior to the conversion to chapter 13, and
- (2) if appropriate, a supplement to the Matrix List of Creditors prepared in accord with L.B.R. 1007-2(e).

SOURCE

Subdivision (a) is the same as 97 L.B.R. 1019.2.

Subdivision (b) is the same as 97 L.B.R. 1019.3.

Local Rule 2002-1

Notice to Creditors

(a) *Notice of Order for Relief in Consumer Cases.* The notice required to be mailed by F.R.B.P. 2002(o) shall be combined with the notice required to be sent by F.R.B.P. 2002(a)(1) and mailed by the clerk within 21 days after the filing of the petition.

(b) *Notice of Hearing on Application for Compensation.* Notice of the filing of an application for compensation or reimbursement of expenses, when required by F.R.B.P. 2002(a)(6), shall be mailed by the applicant and the applicant shall file with the court a certification of notice. Notice of the filing of an application by counsel for the debtor for compensation must be provided under

F.R.B.P. 2002(a)(6) only if the statement required by § 329 of the Code and L.B.R. 2016-4 indicates that the post-petition compensation plus the amount of the reimbursement for expenses exceeds the amount specified in F.R.B.P. 2002(a)(6).

(c) *Clerk's Service List*. The clerk shall maintain a Clerk's Service List which lists the name, address, phone number, and fax number of the debtor, counsel for the debtor, the trustee, counsel for any committee and the members of the committee, and all creditors and equity security holders who have filed requests that all notices be mailed to them under F.R.B.P. 2002(I).

SOURCE

Subdivision (a). 97 L.B.R. 2002.1.

Subdivision (b) is derived from 97 L.B.R. 2002.2(a), which was first modified to make it clear that the monetary trigger for notice to all creditors is based only on the amount of the fee and expenses incurred for postpetition services. A second modification, effective December 11, 2000, revised the “trigger” to track the sum specified in F.R.B.P. 2002(a)(6).

Subdivision (c) is derived from 97 L.B.R. 2002.5.

Under L.B.R. 9014-3, which governs motion practice, a movant must give notice of the filing of the motion and the hearing date to those on the Clerk's Service List; however, the movant is no longer required to provide a copy of the motion to those on the Clerk's Service List. A copy of the motion must be provided by the movant only to persons on the Clerk's Service List who request a copy of the motion.

Local Rule 2004-1

Depositions and Examinations

Before filing a motion for an examination under F.R.B.P. 2004, counsel for the moving party shall, except in extraordinary circumstances, give 3 days notice to counsel for the party to be examined or, if the party is not represented, to the party that a motion for examination will be filed, and counsel for the moving party shall attempt, before filing the motion, to arrange a mutually convenient time and date for the examination.

SOURCE

This rule is the same as 97 L.B.R. 2004.1 with the exception that this rule refers to a motion, rather than an application, for an examination.

Local Rule 2010-1

Trustees: Management and Disbursement of Estate's Funds

If trustee is serving in a chapter 7 or 11 case, the trustee shall be the sole person with signatory or other authority to control or disburse funds or other property of the estate.

SOURCE

This rule is the same as 97 L.B.R. 2010.1

Local Rule 2014-1

Employment of Professionals

(a) *Application.* Requests to employ attorneys, accountants, appraisers, auctioneers, agents, or other professionals shall be made by application under the procedure set forth in L.B.R. 9013-1(d) or (e), whichever is applicable.

(b) *Service.*

- (1) An application of the trustee, debtor-in-possession, or any official creditors' committee to employ bankruptcy counsel must be served on the United States trustee and, if appropriate, counsel for the debtor, and any trustee.
- (2) All other applications to employ must be served on the United States trustee, counsel for the debtor, counsel for any official creditors' committee, and those on the Clerk's Service List.

SOURCE

This rule is substantially the same as 97 L.B.R. 2014.1.

Local Rule 2014-2

Attorney's Control of Funds of the Estate Prohibited

An attorney whose employment is approved under § 327 of the Code, except (I) when also serving as the trustee, or (ii) when serving as an escrow agent, shall not establish or exercise any signatory or other authority to control or disburse funds or other property of the estate.

SOURCE

This rule is similar to 97 L.B.R. 2014.2. Added to the "except" clause is a reference to the trustee who is also serving as an attorney.

Local Rule 2015-1

Trustees and Debtors in Possession: Operating Reports

A trustee or debtor-in-possession who submits an operating report to the United States trustee shall file a copy of the report on the same day and shall serve a copy of the report on counsel for any official creditors' committee within 3 days of filing the report.

SOURCE

This rule is derived from L.B.R. 2015.1.

Local Rule 2016-1

Compensation of Professionals: Service, Notice, and Disposition of Application

(a) *Service: Courtesy Copy.* A copy of the application for compensation and reimbursement for expenses shall be served by the applicant on any trustee or interim trustee, the trustee's counsel, the United States trustee, the debtor, the debtor's counsel, and counsel for any official committee. The applicant shall file a certification of service. An applicant shall furnish a copy of an application to any party in interest who requests a copy of the application and who agrees to reimburse the applicant for the actual cost of producing and delivering the copy of the application.

(b) *Notice.* Before or on the date an application for compensation and reimbursement of expenses is filed, the applicant shall, if notice of a hearing on the application is required under F.R.B.P. 2002(a)(6), give to those on the Matrix List of Creditors or, if there is an official committee serving in the case to those on the Clerk's Service List, notice of the identity of the applicant, and the amounts requested, and the requirement that any objection to the application must be filed and served on the applicant or, if the applicant is represented, counsel for the applicant within 21 days of the date on which the application is filed.

(c) *Certification of Notice and Whether any Objection Has Been Filed.* After the expiration of the 21 day period to file an objection, the applicant shall file a certification of notice, which also

certifies whether any timely objection has been filed. The applicant may include in the certification a request that a hearing be held.

(d) *Disposition of Application.* After the filing of a Certification of Notice under subdivision (c), the court may either rule on the application or set a hearing date.

(e) *Notice of Hearing.* If the court sets a hearing date for an application for compensation and reimbursement of expenses, the clerk or, if the court directs, the applicant shall give notice of the hearing to the applicant, the objector, those required to be served or to be given notice under subdivisions (a) or (b), and any other person the court directs.

(f) *Disposition Without Hearing: Reduced Award.* If the court, without holding a hearing, awards an applicant less than the requested amount of compensation and reimbursement of expenses, an applicant's motion under Rule 9023 of the F.R.B.P. to alter or amend the order may include a request for a hearing on the application or be accompanied by a brief in support of the application. Such a motion to alter or amend is governed by L.B.R. 9014-2, Motions Determined Without a Hearing, except that the court shall hold a hearing if an applicant requests a hearing.

SOURCE

This rule is derived from 97 L.B.R. 2002.2(b)-(d).

Subdivision (a). The last sentence of subdivision (a) requires an applicant to provide a copy of the application to any party who requests a copy of the application and pays the cost of copying and delivering a copy of the application.

Subdivision (f). If the court rules on a fee application without holding a hearing, an applicant may file a motion under F.R.B.P. 9023 to alter or amend the order. This subdivision provides that if a Rule 9023 motion contains a request for a hearing, the court must hold a hearing before ruling on the Rule 9023 motion. If the Rule 9023 motion does not contain a request for a hearing, the court may dispose of the motion under L.B.R. 9014-2 without a hearing.

Local Rule 2016-2

(a) *Application for Compensation for Services Rendered Before Confirmation.*

(1) *Short Form Application.* Counsel for a chapter 13 debtor may file a short form application that conforms substantially to L.B.F. 2016-2A if the services were rendered:

(A) for a chapter 13 debtor with above - median income (the amount on line 15 of Form B22C is not less than the amount on line 16) and counsel will receive total

compensation of \$3,500 or less for all services rendered before confirmation, or

(B) for a chapter 13 debtor with below - median income (the amount on line 15 of Form B22C is less than the amount on line 16) and counsel will receive total compensation of \$3,000 or less for all services rendered before confirmation.

(2) *Long Form Application.* If counsel for a chapter 13 debtor is not authorized under subdivision (a)(1) to file a short form application for services rendered before confirmation, counsel shall file a long form application that conforms substantially to L.B.F. 2016-2B.

(b) *Application for Compensation for Services Rendered After Confirmation: Supplemental Application.* If counsel for a chapter 13 debtor renders services after confirmation and seeks compensation payable by the chapter 13 trustee, counsel shall file a supplemental application that conforms substantially to L.B.F. 2016-2C.

EXPLANATORY NOTE (2005)

Subdivision (a), which applies only to applications of counsel for the debtor in chapter 13 cases, is designed to simplify the fee applications filed therein. The services performed must be described but time records need not accompany the application. This amendment is mandated by Lamie v. United States Trustee, 124 S.Ct. 1023 (2004), holding that 11 U.S.C. §330(a)(1) does not authorize compensation awards to debtors' attorneys from estate funds, unless they are employed by the chapter 7 trustee as authorized by 11 U.S.C. §327. Therefore, all applications by professionals, other than an attorney representing a chapter 13 debtor, shall be governed by F.R.B.P. 2016(a) and L.B.R. 2016-1, 2016-3 and L.B.F. 2016-3.

EXPLANATORY NOTE (2008)

The rule has been amended in order to: (1) modify the maximum amount of counsel fees that may be requested under the simplified procedure and (2) reference new forms developed for use in connection with applications for compensation in chapter 13 cases.

L.B.F. 2016-2A “Short Form” Application of Counsel for Debtor for Compensation and Reimbursement of Expenses in Chapter 13 Case Pursuant to L.B.R. 2016-2(a)

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:) **Chapter 13**
)
) **Debtor(s)**)
) **Bky. No.**
)

APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES

Name of applicant applies under § 330 of the Bankruptcy Code for an award of compensation and reimbursement of actual, necessary expenses and represents:

1. Applicant is counsel for the debtor.
2. The debtor filed a petition under chapter 13 of the Bankruptcy Code on *(date)*.
3. The debtor’s annualized current monthly income as set forth on Form B22C is:
____ above median (the amount on line 15 is not less than the amount on line 16)
____ below median (the amount on line 15 is less than the amount on line 16).
4. All services rendered and expenses incurred for which compensation or reimbursement is requested were performed or incurred for or on behalf of the debtor, the services and expenses were actual and necessary, and the compensation requested for those services is reasonable.
5. Applicant requests an award of compensation of \$_____ for _____ hours expended in providing the following services: *(Description of Services)*.
6. Applicant requests reimbursement of expenses in the amount of \$_____ for the following expenses: *(Description of Expenses)*.
7. The debtor paid Applicant \$_____ prior to the filing of the petition.
8. A copy of the Applicant’s disclosure of compensation pursuant to Fed. R. Bankr. P. 2016(b) is attached hereto as Exhibit “A.”

LOCAL BANKRUPTCY RULES

9. None of the compensation paid to applicant will be shared with any person other than a member or regular associate of applicant's law firm unless 11 U.S.C. §504(c) applies.

WHEREFORE, Applicant requests an award of \$ _____ in compensation and of \$ _____ in reimbursement of actual, necessary expenses.

Dated: _____, 20

Signed: _____

Applicant

By: _____

Name: _____

Address: _____

Phone No.: (____) _____

Fax No.: (____) _____

L.B.F. 2016-2B “Long Form” Application of Counsel for Debtor for Compensation and Reimbursement of Expenses in Chapter 13 Case

UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:) Chapter 13
Debtor(s)) Bky. No.

APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES

Name of applicant applies under § 330 of the Bankruptcy Code for an award of compensation and reimbursement of actual, necessary expenses and represents:

- 1. Applicant is counsel for the debtor.
2. The debtor filed a petition under chapter 13 of the Bankruptcy Code on (date).
3. The debtor’s annualized current monthly income as set forth on Form B22C is:
above median (the amount on line 15 is not less than the amount on line 16)
below median (the amount on line 15 is less than the amount on line 16).
4. All services rendered and expenses incurred for which compensation or reimbursement is requested were performed or incurred for or on behalf of the debtor, the services and expenses were actual and necessary, and the compensation requested for those services is reasonable.
5. Applicant requests an award of compensation of \$_____ for _____ hours expended on the initial consultation with client(s) and in providing before confirmation (i) the customary services of counseling and representing the chapter 13 debtor(s) in connection with the analysis of the financial situation; preparation, review and filing with the court of all required documents; correspondence, telephone conversations and miscellaneous contact with creditors, the trustee, attorneys and other parties in interest; preparation for and attendance at 341(a) meeting, and (ii) in representing the debtor(s) in connection with [check applicable item(s)]:
cure of a residential mortgage default or other treatment of residential real property claims
ownership and claims relating to other real property (specify the number of

properties and describe the issues)

- motor vehicle loans or leases
- state or federal tax claims
- domestic support obligations
- student loans
- an operating business
- 20 or more creditors listed in Schedule F
- automatic stay litigation
- other litigation (*describe*)

6. *[Optional. Applicant may supplement paragraph five with a description of those matters, whether or not they are listed in paragraph 5, that took an unusual amount of time to complete or involved complex legal or factual issues.]*
7. Applicant requests that compensation be awarded at the following hourly rate(s): (*Specify the hourly rate for each person who provided services*).
8. Applicant requests reimbursement of expenses in the amount of \$_____ for the following expenses: (*Description of Services*).
9. The debtor paid Applicant \$_____ prior to the filing of the petition.
10. A copy of the Applicant's disclosure of compensation pursuant to Fed. R. Bankr. P. 2016(b) is attached hereto as Exhibit "A."
11. None of the compensation paid to applicant will be shared with any person other than a member or regular associate of applicant's law firm unless 11 U.S.C. §504(c) applies.
12. Attached as Exhibit "B" is a copy of Applicant's time records setting forth the dates and amount of time expended for the services performed on behalf of the debtor.

WHEREFORE, Applicant requests an award of \$_____ in compensation and of \$_____ in reimbursement of actual, necessary expenses.

LOCAL BANKRUPTCY RULES

Dated: _____, 20

Signed: _____

Applicant

By:

Name:

Address:

Phone No.:

() _____

Fax No.:

() _____

L.B.F. 2016-2C "Supplemental" Application of Counsel for Debtor for Compensation and Reimbursement of Expenses for Post Confirmation Services Payable by the Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:) Chapter
)
)
)
Debtor) Bankruptcy No.

SUPPLEMENTAL APPLICATION FOR COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR SERVICES PERFORMED AFTER CONFIRMATION OF CHAPTER 13 PLAN

Name of applicant

applies under § 330 of the Code for an order directing the chapter 13 trustee to pay an award of compensation and reimbursement of actual, necessary expenses for services performed after confirmation of the debtor's chapter 13 plan and represents:

- 1. Applicant is counsel for the debtor.
2. The debtor filed a petition under chapter 13 of the Bankruptcy Code on (date)
3. The debtor's chapter 13 plan was confirmed by the court on (date).
4. The debtor paid the applicant \$ prior to the filing of the chapter 13 petition.
5. Applicant's prior applications:

First Application Period

xx/xx/xx to xx/xx/xx Date of Order xx/xx/xx

Table with 5 columns: Requested, Allowed, Paid, Due, Fees. Each cell contains a dollar sign followed by a blank line for input.

Expenses \$ _____ \$ _____ \$ _____ \$ _____

Second Application Period

xx/xx/xx to xx/xx/xx Date of Order xx/xx/xx

Fees	\$ _____	\$ _____	\$ _____	\$ _____
Expenses	\$ _____	\$ _____	\$ _____	\$ _____
Grand Totals	\$ _____	\$ _____	\$ _____	\$ _____

6. Applicant requests an award of supplemental compensation of \$ _____ for _____ hours expended in providing the following services: *(Description of Services)*

7. Applicant requests that compensation be awarded at the following hourly rate(s): *(Specify the hourly rate for each person who provided services)*.

8. Applicant requests reimbursement of expenses in the amount of \$ _____ for the following expenses *(Description of expenses)*.

9. A copy of the applicant's disclosure of compensation pursuant to F. R.B. P. 2016(b) is attached as Exhibit "A"

10. Attached as Exhibit B is a copy of the applicant's time records setting forth the the dates and amount of time expended for the services performed on behalf of the debtor after confirmation of debtor's chapter 13 plan.

11. All services rendered and expenses incurred for which compensation or reimbursement is requested
 - a. were performed or incurred for or on behalf of the debtor, the services and expenses were actual and necessary, and the compensation requested for those services is reasonable; and

 - b. are not duplicative of services and expenses for which compensation or reimbursement was previously requested.

12. If this supplemental application is granted, the debtor's confirmed chapter 13 plan

(check whichever is applicable)

_____ is adequately funded.

_____ is not adequately funded.

13. None of the compensation paid to applicant will be shared with any person other than a member or regular associate of applicant's law firm unless 11 U.S.C. §504(c) applies.

WHEREFORE, Applicant requests an award of \$ _____ in compensation and of \$ _____ in reimbursement of actual, necessary expenses.

Dated: _____, 20XX

Signed: _____

Applicant

By: _____

Name: _____

Address: _____

Phone No.:(_____) _____

Fax No.:(_____) _____

Local Rule 2016-3

Compensation of Professionals: Detailed Form of Application

(a) *Content of Application.* An application for compensation or reimbursement of expenses required by F.R.B.P. 2016(a) shall, unless the application is governed by L.B.R. 2016-2, include the following:

- (1) a description of the services performed that identifies each service separately in sufficient detail to allow evaluation of the benefit derived from the service, the date each service was performed, and the time expended for each service.
- (2) the professional time expended shall be set forth either
 - (A) by each professional or paraprofessional in chronological order, or
 - (B) by day in chronological order showing all professionals or paraprofessionals that expended time on each day; and
- (3) a list by type of the expenses for which reimbursement is sought that includes for each type of expense either
 - (A) a statement that the amount of the expense is calculated using the applicant's actual in-house cost or the actual amount billed by a third party provider, or
 - (B) an explanation of how the amount of the expense is calculated.

(b) *Form of Application.* An application for compensation or reimbursement of expenses that conforms substantially to L.B.F. 2016-3, satisfies the requirements of subdivision (a).

(c) *Categories of Service.* An application for compensation that requests professional fees in excess of \$50,000 shall set forth separately, to the extent applicable, the professional time expended under the following categories of service.

- (1) Asset Analysis and Recovery (identification and review of potential assets including causes of action and non-litigation recoveries).
- (2) Asset Disposition (sales, leases [§365 matters], abandonment and related transaction work).
- (3) Business Operations (issues related to debtor-in-possession operating in chapter 11 such as employee, vendor, tenant issues and other similar problems).

- (4) Case Administration (coordination and compliance activities, including preparation of statement of financial affairs; schedules; list of contracts; United States Trustee interim statements and operating reports; contacts with the United States Trustee; general creditor inquiries).
- (5) Claims Administration and Objections (specific claim inquiries; bar date motions; analyses, objections and allowances of claims.)
- (6) Employee Benefits/Pensions (review issues such as severance, retention, 401K coverage and continuance of pension plan).
- (7) Fee/Employment Applications (preparations of employment and fee applications for self or others; motions to establish interim procedures).
- (8) Fee/Employment Objections (review of and objections to the employment and fee applications of others).
- (9) Financing (matters under §§ 361, 363, and 364 including cash collateral and secured claims; loan document analysis).
- (10) Litigation (there should be a separate category established for each major matter).
- (11) Meetings of Creditors (preparing for and attending the conference of creditors, the § 341(a) meeting and other creditors' committee meetings).
- (12) Plan and Disclosure Statement (formulation, presentation and confirmation; compliance with the plan confirmation order, related orders and rules; disbursement and case closing activities, except those related to the allowance and objections to allowance of claims).
- (13) Relief from Stay Proceedings (matters relating to termination or continuation of automatic stay under § 362).
- (14) Accounting/Auditing (activities related to maintaining and auditing books of account, preparation of financial statements and account analysis).
- (15) Business Analysis (preparation and review of company business plan; development and review of strategies; preparation and review of cash flow forecasts and feasibility studies).
- (16) Corporate Finance (review financial aspects of potential mergers, acquisitions and disposition of company or subsidiaries).

- (17) Data Analysis (management information systems review, installation and analysis, construction, maintenance and reporting of significant case financial data, lease rejection, claims, etc.).
- (18) Litigation Consulting (providing consulting and expert witness services relating to various bankruptcy matters such as insolvency, feasibility, avoiding actions; forensic accounting, etc.).
- (19) Reconstruction Accounting (reconstructing books and records from past transactions and bringing accounting current).
- (20) Tax Issues (analysis of tax issues and preparation of state and federal tax returns).
- (21) Valuation (appraise or review appraisals of assets).

An applicant may use additional categories of service.

(d) *Court Ordered Categories of Service*. On its own motion or on the motion of a party in interest, the court may order that different categories be used for services performed after a date certain that is a reasonable period of time after the entry of the order.

SOURCE

Subdivisions (a) and (c) are similar to 97 L.B.R. 2002(a). The categories in subdivision (c) are the categories in the fee application regulation published by the Office of United States Trustee. Counsel need only use the categories that cover services rendered during the application period.

Subdivision (d) authorizes the court to specify that other categories must be used.

Subdivision (b) authorizes the use of a standard form of fee application. The form is derived in part from the fee application regulation published by the Office of United States Trustee.

**L.B.F. 2016-3 Application for Compensation
or Reimbursement of Expenses**

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re:) Chapter
)
)
)
Debtor) Bankruptcy No.

..... APPLICATION FOR
first, second, etc. as applicable
COMPENSATION AND REIMBURSEMENT OF EXPENSES

Of.....
name of applicant, professional capacity
For.....
entity represented or engaged by

For THE PERIOD THROUGH

..... in accordance
Name of applicant, professional capacity, and entity represented or engaged by

with F.R.B.P. 2016 applies under § 330 of the Code for an award of compensation and reimbursement of actual, necessary expenses and represents:

Part A Preliminary Statement

1. Applicant is [professional capacity] for [entity represented or engaged by].
2. All services rendered and expenses incurred for which compensation or reimbursement is requested were performed or incurred for or on behalf of [entity represented or engaged by].
3. The services described in this Application are actual, necessary services and the compensation requested for those services is reasonable.
4. The expenses described in this Application are actual, necessary expenses.

[Additional numbered paragraphs may be used by the Applicant to set forth other statements or information.]

Part B General Information

1. **Period** xx/xx/xx to xx/xx/xx

Final Application _____
Interim Application _____

Requested

Fees	\$ _____
Expenses	\$ _____
Total	\$ _____

2. **General Information**

- a. Date case filed: xx/xx/xx
- b. Date application to approve employment filed: xx/xx/xx
- c. Date employment approved: xx/xx/xx
- d. First date services rendered in the case: xx/xx/xx
- e. Compensation request is under § 330: _____ Yes _____ No
If other statutory basis, specify: § _____

f. Any fees awarded will be paid from the estate:

_____ Yes _____ No

If no, state the source of payment of any fee that is awarded.

g. This application is for a period less than 120 days after the filing of the case or less than 120 days after the end of the period of the last application.

_____ Yes _____ No

If yes, state date and terms of court order allowing filing at shortened intervals.

Order date: xx/xx/xx

Terms, if any, _____

3. Prior Applications

First Application Period

xx/xx/xx to xx/xx/xx Date of Order xx/xx/xx

	<u>Requested</u>	<u>Allowed</u>	<u>Paid</u>	<u>Due</u>
Fees	\$ _____	\$ _____	\$ _____	\$ _____
Expenses	\$ _____	\$ _____	\$ _____	\$ _____

Second Application Period

xx/xx/xx to xx/xx/xx Date of Order xx/xx/xx

Fees	\$ _____	\$ _____	\$ _____	\$ _____
Expenses	\$ _____	\$ _____	\$ _____	\$ _____

Grand Totals \$ _____ \$ _____ \$ _____ \$ _____

4. Attorneys' Billing for Current Period

<u>Name</u>	<u>Admitted</u>	<u>Hours</u>	<u>Billing Rate</u>	<u>Total</u>
_____	_____	_____	_____	\$ _____
etc.	etc.	etc.	etc.	etc.
Grand Total	_____			\$ _____

5. Paralegals Billing for Current Period

<u>Name</u>	<u>Hours</u>	<u>Billing Rate</u>	<u>Total</u>
_____	_____	_____	_____
Grand Totals	=====		\$ _____

6. Billing Rates

a. Are any of the billing rates different than the billing rates set forth in your last application?
_____ Yes _____ No

b. If yes, indicate whose billings rates are different and explain why? _____

Part C Billing Summary

1. **Description of Services.** Provide adequate detail appropriate for the amount of time billed and the nature and variety of the services rendered.

2. **Detail of Hours Expended.** Set forth in list form or attach a list that shows the name of the professional or paraprofessional, date, activity, and time expended. The list may be organized in either of two ways.

(a) By each professional or paraprofessional in chronological order for the application period;
or

(b) By day in chronological order showing all professionals or paraprofessionals that billed time on a particular day during the application period.

* * * * *

Category Reporting. If category reporting of time expended is required under L.B.R. 2016-3(c), only categories for which services were rendered during the period covered by the application should be included. A separate Description of Services and Detail of Hours Expended shall be provided for each category.

Part D Expense Summary

Set forth in list form or attach a list that shows the type of expenses for which reimbursement is sought. For each type of expense either

(a) state the amount of the expense that is calculated using the applicant's in-house actual cost or the actual amount billed by a third party provider, or

(b) explain how the amount of the expense is calculated.

WHEREFORE, Applicant requests an award of \$ _____ in compensation and of \$ _____ in reimbursement of actual, necessary expenses.

Dated: _____

Signed: _____

Applicant

By: _____

Name

Address

Phone No. (____)

Fax No. (____)

Local Rule 2016-4

Disclosure by Debtor's Counsel and Pro Se Debtor

(a) *Disclosure by Attorney.* The statement of counsel for the debtor required by § 329 of the Code and F.R.B.P. 2016(b) shall list separately (I) the total amount of the compensation and the total amount of reimbursement of expenses, (ii) the amount of each total attributable to services rendered before the filing of the petition, and (iii) the amount of each total attributable to services rendered or to be rendered after the filing of the petition.

(b) *Disclosure of Payments by Debtor.* In all pro se cases, at the time the petition is filed, the clerk shall require the debtor to complete a statement on L.B.F. 2016-4 setting forth all persons or business entities from whom the debtor received assistance or to whom the debtor paid or agreed to pay money in connection with the case.

SOURCE

Subdivisions (a) and (b) are the same as 97 L.B.R. 2016.1(a) and (c). There is added to subdivision (a) the requirement that the disclosure statement separately list fees and expenses for pre and postpetition services. The amount of compensation requested for post-petition services and the amount of reimbursement sought for post-petition expenses determines whether notice must be sent to all creditors. See L.B.R. 2002-1(b). The 2000 amendment to F.R.B.P. 2002(a)(6), effective December 1, 2000, raised the amount that triggers the duty to give notice from “exceeds \$500,” which is referred to above, to “exceeds \$1000.”

**LOCAL BANKRUPTCY FORM 2016-4
STATEMENT OF PRO SE DEBTOR(S)**

Debtor's Name _____ Case No. _____

Address _____ Chapter of Case _____

Telephone Number (home) _____ Date Case Filed _____

Telephone Number (work) _____ Date this Form Submitted

1. List the name, address, and telephone number of any person or business assisting you in filing or preparing papers for this case:

2. State how you were referred to the person or business named above or the source of advertisement you responded to.

3. a. Total fee charged by person or business named above \$ _____

b. Amount of fee paid as of the date you filed bankruptcy \$ _____

c. Did the preparer tell you the amount of court costs that must be paid to file your
YES NO (circle one)

4. Were various chapters or types of bankruptcy explained to you?

YES NO (circle one)

Other Comments _____

5. Did the preparer explain to you that you have the right to claim certain property as exempt?

YES NO (circle one)

6. Did the preparer give you a copy of the papers he prepared for you?

YES NO (circle one)

Signature of Debtor(s)

SOURCE

This form is a revised version of L.B.F. 2016.1.

Local Rule 2016-5

Payment on Account to Professionals in Complex Chapter 11 Case.

(a) *Applicability.* This rule applies to any case being administered as a complex chapter 11 case. An application under this rule for payment on account is governed by this rule and L.B.R. 9013-1(a) and (b).

(b) *Payment on Account.* Unless otherwise ordered by the court and subject to subdivision (c), a professional employed under Sections 327 or 1103, who has rendered services for a period of at least one month but not yet filed an application for compensation and reimbursement of expenses under L.B.R. 2016-3 covering that period, may file an application for payment on account toward the compensation and reimbursement that will later be requested in an application filed in accordance with L.B.R. 2016-3.

(c) *Limitation on Period Covered by Application.* A professional who has rendered services for a period but not yet filed an application for compensation under L.B.R. 2016-3 covering that period may only request payment on account for a total of four months. Once an application under L.B.R. 2016-3 is filed covering a period, a professional may resume filing applications for payment on account for up to a total of four months for services rendered after the period covered by the L.B.R. 2016-3 application.

(d) *Content of Application.* An application for payment on account shall include (1) a list by name of each professional or paraprofessional, their billing rate, number of hours billed, and the total amount requested for the period; (2) a general description of the service rendered during the period by the applicant in the categories of service listed in L.B.R. 2016-3 (c), and (3) a list of the type and amount of expenses for which reimbursement is requested.

(e) *Service of Application and Notice.* On the day an application for payment on account is filed, the applicant shall serve

- (1) A copy of the application, and
- (2) A notice of the filing of the application and the requirement that any objection to the application must be filed and served on the applicant, or if the applicant is represented, counsel for the applicant, within 21 days of the date on which the application is filed, on the following, or, if represented, their counsel of record,
 - (i) the debtor;
 - (ii) the United States trustee;
 - (iii) any trustee;

- (iv) any official committee or, if no committee has been appointed in a chapter 11 case, the 20 largest unsecured creditors of the debtor; and
- (v) those on the Clerk's Service List.

(f) *Form of Objection.* An objection to an application for payment on account shall identify the objector, state the basis of the objection, and identify the amount of the requested payment that is objected to and the amount that is not objected to.

(g) *Certification Relating to Objection.* After the expiration of the 21 day period to file an objection, the applicant shall file a certification, prepared as required by L.B.R. 9014-4, of notice and service which also states whether any timely objection has been filed and, if a timely objection has been filed, the specific amount of the total payment requested that is objected to. The applicant shall serve a copy of the certification on the debtor.

(h) *Payment on Account.* If the debtor receives a certification under subdivision (g) that indicates that no timely objection has been filed or that there was no objection to a portion of the payment requested in the application, the debtor shall pay the professional 80% of the fees and 100% of the expenses described in the application that are not objected to.

(i) *Hearing Date on Objection and Notice of Hearing.* An applicant, but not an objector, may under L.B.R. 5070-1(a) obtain a hearing date for consideration of objections that have been timely filed to one or more applications for payment on account. The clerk shall give notice of the hearing to the objector, those that must be served under subdivision (e), and any other entity the court directs.

(j) *No Binding Effect.* The right of a professional or a party in interest to request, object to, or otherwise dispute any issue relating to an application for compensation and reimbursement filed under L.B.R. 2016-3 is not affected by the fact the party in interest did not file any objection to the application for payment on account, the professional received payment on account, or that an application for payment on account was either objected to or denied by the court.

(k) *Return of Payment on Account.* If the amount paid on account to a professional exceeds the amount of final compensation awarded by the court, the professional shall repay the excess amount to the debtor within 14 days of entry of the order allowing final compensation, unless the court fixes another date for the repayment.

(l) *Content of Application for Compensation or Reimbursement of Expenses.* An application for compensation and reimbursement of expenses that covers a period for which a professional has received payment on account pursuant to this rule shall, in addition to conforming to L.B.R. 2016-3, include the following:

(1) a list of the applications for payment on account that were filed during the period showing for each application whether (i) any objections were filed, (ii) a hearing on the objection has been held or scheduled to be held, and (iii) the amount, if any, paid on account;

(2) a tabulation that shows the difference, if any, between the amounts requested in the applications for payment on account and the application for compensation and reimbursement filed under L.B.R. 2016-3; and

(3) an explanation of the differences in the amounts requested.

Committee's Explanatory Note

This rule was originally noticed as proposed L.B.R. 2016-4. It has been renumbered consistent with existing local rules.

Subdivision (a) This rule applies to cases being administered as complex chapter 11 cases under L.B.R. 1002-2. In general, the rule permits professionals to submit monthly applications for payment of fees on account. If there is no objection, the debtor pays 80% of the fees and 100% of the expenses. If a portion of the fee is objected to, only 80% of the unobjected to portion may be paid.

A maximum of four months in fees may be requested by applications for payment on account. Once a long form fee application under L.B.R.2016-3 is filed that covers the period for which applications for payment on account have been filed, the professional may resume requesting payment on account.

Subdivision (b) establishes one month as the shortest period that may be covered by an application for payment on account.

Subdivision (c) establishes four months as the maximum period that may be covered by applications for payment on account. The four-month period begins anew once the professional files a fee application under L.B.R. 2016-3.

Subdivision (d) requires less detail concerning what matters each professional worked on than is required under L.B.R 2016-3. The information that is required by this rule will be ample for parties to determine whether an objection should be filed. Under subdivision (j), a failure to object to an application for payment on account does not preclude a party from objecting to a fee application under L.B.R. 2016-3.

Subdivision (e) requires service of an application for payment on account on the same persons who have to be served with fee applications under L.B.R. 2016-1(a). There is no requirement that a separate notice of the filing of the application on account be given to those on this matrix list of creditors. See L.B.R. 2016-1(b).

Subdivision (f) requires an objection to specifically state how much of the requested fee is objected to.

Subdivision (g) is similar to L.B.R. 2016-1(c).

Subdivision (h) requires the debtor on receipt of a certificate from the applicant to pay 80% of the unobjected to fees and 100% of the unobjected to expenses. No obligation to pay on account arises if the debtor or another party objects to the application. If, when the debtor receives the certification, the debtor has a basis for not paying the professional, the debtor may file a motion seeking authority to withhold payment.

Subdivision (i) The filing of an objection to an application for payment on account automatically prevents payment of the amount objected to. Thus, there is no reason to hold a hearing on the objection unless the applicant disputes the objection. Only the applicant may have a hearing on an objection scheduled.

Subdivision (j) provides that the rights of all parties are preserved and may be asserted when a fee application under L.B.R. 2011-3 is filed.

Subdivision (k) states the obligation of a professional to return fees paid on account when the final fee allowance is less than the amount paid on account.

Subdivision (l) requires an applicant to include in a L.B.R. 2016-3 fee application information relating to amounts paid on account.

Local Rule 2082-1

Chapter 12—General

(a) *Form of Plan Payment.* Payments to the chapter 12 trustee under § 1226(a) of the Code or under a confirmed plan shall be made by certified check or money order. Each payment shall be legibly marked with the bankruptcy number of the case and with the name of the debtor as that name appears in the caption of the case.

(b) *Duration of Payments.* Payments to the trustee under a confirmed plan shall continue until an order is entered dismissing the case, the debtor has completed all payments required by the plan, the debtor files a motion for discharge or dismissal, or the debtor files a notice of conversion under § 1208(a).

(c) *Effect of Wage Order.* The debtor shall continue to make the payments required under subdivision (b) even if the debtor files a motion for a wage order or a wage order is entered, unless the debtor's employer or other entity subject to the wage order makes the payment to the trustee.

(d) *Transmission of Copy of Local Rule.* The chapter 12 trustee shall mail a copy or summary of this local rule to the debtor and counsel for the debtor.

(e) *Standing Trustee's Fee.* If a chapter 12 case is dismissed or converted prior to the entry of a discharge, whether or not a plan has been confirmed, the standing trustee shall be entitled to retain (i) from any payments from the debtor the amount of \$35.00 or the amount of the percentage fee authorized under 28 U.S.C. § 586(e)(1), whichever amount is greater, and (ii) the interest earned on any payments from the debtor.

(f) *Monthly Disbursements.* The trustee shall make post-confirmation disbursements to creditors on a monthly basis.

(g) *Final Account.* On the termination of a chapter 12 case, the trustee shall file with the clerk a final account of all monies receive and disbursed, and shall mail a copy of the final account to the debtor and counsel for the debtor.

(h) *Notice of Dismissal.* The clerk shall provide timely notice of the dismissal of a chapter 12 case to all creditors on the Matrix List of Creditors and to the trustee.

SOURCE

This rule is the same as 97 L.B.R. 1017.2 with the exceptions that subdivision (d) of 97 L.B.R. 1017.2 is omitted because a chapter 12 debtor does not have to make pre-confirmation payments and subdivision (f) is omitted as unnecessary. Also subdivision (e) of this rule applies only if a chapter 12 standing trustee is serving as the trustee in the chapter 12 case.

Subdivision (f) of this rule is new.

Local Rule 2083-1

Chapter 13—General

(a) *Form of Plan Payment.* Payments to the chapter 13 trustee under § 1326(a) of the Code or under a confirmed plan shall be made by certified check or money order. Each payment shall be legibly marked with the bankruptcy number of the case and with the name of the debtor as that name appears in the caption of the case.

(b) *Duration of Payments.* Payments to the trustee under § 1326(a) of the Code or under a confirmed plan shall continue until an order is entered dismissing or converting the case, the debtor completes all payments required by the plan, the debtor files a motion for discharge or dismissal, or the debtor files a notice of conversion under § 1307(a).

(c) *Effect of Wage Order.* The debtor shall continue to make the payments required under subdivision (b) even if the debtor files a motion for a wage order or a wage order is entered, unless the debtor's employer or other entity subject to the wage order makes the payment to the trustee.

(d) *Transmission of Copy of Local Rule.* The chapter 13 trustee shall mail a copy or a summary of this rule to the debtor and counsel for the debtor.

(e) *Standing Trustee's Fee.* If a chapter 13 case is dismissed or converted prior to the entry of a discharge, whether or not a plan has been confirmed, the standing trustee shall be entitled to retain (i) from any payments made from the debtor the amount of \$35.00 or the amount of the percentage fee authorized under 28 U.S.C. § 586(e)(1), whichever amount is greater, and (ii) the interest earned on any payments from the debtor.

(f) *Monthly Disbursements.* The trustee shall make post-confirmation disbursements to creditors on a monthly basis.

(g) *Final Account.* On the termination of a chapter 13 case, the trustee shall file with the clerk a final account of all monies receive and disbursed, and shall mail a copy of the final account to the debtor and counsel for the debtor.

(h) *Notice of Dismissal.* The clerk shall provide timely notice of the dismissal of a chapter 13 case to all creditors on the Matrix List of Creditors and to the trustee.

SOURCE

This rule is the same as 97 L.B.R. 1017.2 with the exception that subdivisions (d) and (f) of 97 L.B.R. 1017.2 have been omitted as unnecessary.

Subdivision (f) is new.

Local Rule 2090-1

Attorneys—Admission to Practice

(a) *Attorney Practice Before the Court.* Only an attorney who either is (i) admitted to practice in the United States District Court for the Eastern District of Pennsylvania and presently in good standing before the district court; (ii) representing the United States and authorized to practice before the district court under Local Civil Rule 83.5(e); or (iii) admitted to practice *pro hac vice* under subdivision (c) may practice before the court.

(b) *General Admission.* An attorney who is admitted to practice in the United States District Court for the Eastern District of Pennsylvania and presently in good standing before the district

court is automatically admitted to practice before this court and is a member of the bar of this court.

(c) *Admission Pro Hac Vice.* An attorney who is a member in good standing of the bar of any United States District Court or the highest court of any state or of the District of Columbia may be admitted to practice before this court in a particular case.

- (1) Adversary Proceedings. A request for admission pro hac vice to appear in an adversary proceeding shall be made by verified application and upon motion of a member of the bar of this court and shall be accompanied by an admission fee² established by the district court. The motion may be granted without hearing under L.B.R. 9014-2; however, no such admission shall be effective until such time as the fee has been paid.
- (2) Non-Adversary Proceedings. A request for admission pro hac vice to appear in any matter other than an adversary proceeding shall be made as set forth in subparagraph (c)(1) above, except that:

the court, in its discretion, may waive the requirement of a written application and motion, and in lieu thereof may permit same to be made on the record by a member of the bar of this court; however, no such admission shall be effective until such time as the admission fee established by the district court has been paid.

(d) *Student Practice.*

- (1) Generally. A law student may appear before the court in any case or matter on behalf of any person if the person on whose behalf the law student is appearing has indicated in writing consent to that appearance and the approved supervising attorney, who must be counsel of record for the person on whose behalf the law student is appearing, has also indicated in writing his approval of that appearance.
- (2) Eligibility Requirements. In order to be eligible to appear before the court, the law student must:
 - (i) be duly enrolled in a law school approved by the American Bar Association;

² The fee for admissions of attorneys pro hac vice in the Bankruptcy Court, effective February 1, 2003, will be set at \$40 per attorney per case. Any payment by means of check or money order is to be payable to "Clerk, United States District Court."

- (ii) have completed legal studies amounting to at least three semesters, or the equivalent if the school is on a basis other than a semester basis;
 - (iii) be introduced to the court in which the law student is appearing for the first time by an attorney admitted to practice before the court;
 - (iv) announce to the court each time that the law student appears that the student is a law student appearing pursuant to this rule;
 - (v) neither ask for nor receive any compensation or remuneration of any kind for services from the person on whose behalf he renders services; and
 - (vi) have read and be familiar with the Rules of Professional Conduct adopted by the Supreme Court of Pennsylvania, as amended from time to time, and any Rule of professional conduct adopted, from time to time, by the United States District Court for the Eastern District of Pennsylvania, the F.R.Evid., the F.R.Civ.P., the F.R.B.P., the Code, and L.B.R. and the L.B.F.
- (3) Compensation. An eligible law student may be paid by an attorney, legal services agency, law school, public defender agency, or the United States government.
- (4) Termination of Eligibility. The eligibility of a law student to appear before the court or perform other services in a bankruptcy case or proceeding may be terminated by any judge within this district after notice and hearing.
- (5) Supervising Attorney. Any member of the bar of this court who chooses to supervise an eligible law student:
- (i) shall be an attorney who has previously received from the Board of Bankruptcy Judges approval to supervise eligible law students, such approval having been given after the filing of an application;
 - (ii) shall assume personal professional responsibility for the quality of the services performed by the law student; and
 - (iii) shall assist the law student in his preparation to the extent necessary to make the product of the law student's efforts indistinguishable from those of a licensed member of the bar.
- (6) Role of Students. The clerk shall maintain a roll of all approved supervising attorneys and law students.

- (7) Miscellaneous. Nothing contained in this rule shall affect the right of any person who is not admitted to practice law to perform any act he might lawfully perform prior to the adoption of this rule.

SOURCE

Subdivision (a) is derived from 97 L.B.R. 9010.4(a) and (b).

Subdivision (b) is derived from 97 L.B.R. 9010.4 (a).

Subdivision (c) is the same as 97 L.B.R. 9010.4(b).

Subdivision (d) is derived from 97 L.B.R. 9010.3. Under subdivision(d)(2)(ii), a law student who has completed three semesters may qualify to appear under the student practice rule.

Local Rule 2090-2

Attorneys—Discipline and Disbarment

(a) *Standards of Professional Conduct*. The standards of professional conduct adopted by the United States District Court for the Eastern District of Pennsylvania and applicable to attorneys practicing before the district court are applicable to attorneys practicing before the bankruptcy court. The bankruptcy court may govern and control the conduct of attorneys practicing before the bankruptcy court.

(b) *Discipline by District Court and Bankruptcy Court*. The bankruptcy court may discipline attorneys practicing before the bankruptcy court, except that the bankruptcy court may not suspend or disbar an attorney. If a judge of the bankruptcy court has good cause to believe that an attorney should be suspended or disbarred, the judge shall notify the Chief Judge of the district court who shall proceed with the matter in accordance with Local Rules of Disciplinary Enforcement of the United States District Court for the Eastern District of Pennsylvania.

(c) *Expedition of the Court's Business*. An attorney engaged in practice before the bankruptcy court.

- (1) shall promptly advise the clerk of the settlement or other final disposition of any matter scheduled before the court, and
- (2) shall not, without just cause, fail to appear when any matter is scheduled before the court, fail to prepare for presentation to the court, present to the court vexatious motions or vexatious opposition to the motion, or multiply the proceedings to increase unreasonably and vexatiously the costs of the case or any other matter before the court.

An attorney who does not comply with this subdivision may be disciplined as permitted under subdivision (b).

SOURCE

Subdivision (a). The first sentence of this subdivision is new. Under Rule IV of the District Court's Local Rules of Disciplinary Enforcement (Local Rule of Civil Procedure 83.6), the Rules of Professional Conduct adopted by the Supreme Court of Pennsylvania are the rules of professional conduct for attorneys practicing before the Eastern District of Pennsylvania. The second sentence of this subdivision is derived from 97 L.B.R. 9010.4(c).

Subdivision (b) is derived from 97 L.B.R. 9010.4(c). Suspension or disbarment of an attorney from practice before the bankruptcy court may only be imposed by the district court in accord with the procedures of Local Rule of Civil Procedure 83.6.

Subdivision (c) is derived from 97 L.B.R. 9011.1.

Local Rule 2091-1

Attorneys—Withdrawal

An attorney may not withdraw his or her appearance except by order of the court unless another attorney eligible to appear before the court enters his or her appearance simultaneously with the request for withdrawal of appearance. A motion for withdrawal of counsel shall specify the basis for withdrawal.

SOURCE

The rule is derived from 97 L.B.R. 9010.1(d).

Local Rule 3001-1

Proofs of Claim in Chapter 12 and Chapter 13 Cases

(a) *Service*. A creditor who files a secured or priority claim in a chapter 12 or chapter 13 case shall serve a copy of the proof of claim on the debtor or, if the debtor is represented, counsel for the debtor, and shall file a certification of service.

(b) *Secured Claims*. If the last payment due from the debtor will be after the date of the final payment under the chapter 12 or 13 plan, a creditor who files a secured claim in a chapter 12 or 13 case shall attach to the proof of claim an itemized statement which includes the following:

- (1) the balance of principal due on the debt;
- (2) the total amount of all payments due but not paid prior to the date the petition was filed ("prepetition arrearage"); and
- (3) all interest, late charges, or other fees.

(c) *Notice.* The order and notice of the § 341(a) meeting of creditors shall include a summary of the requirements set forth in subdivisions (a) and (b).

SOURCE

This rule is derived from 97 L.B.R.3001.1.

Local Rule 3007-1

Objections to Claims

(a) *Form of Objection.* An objection to a proof of claim shall identify the objector, the number of the proof of claim objected to, the name of claimant, the amount claimed, and the basis of the objection. An objection shall state in bold type on the right hand side adjacent to the caption the date, time and place set for the hearing.

(b) *Scheduling of Hearing.* Prior to the filing of an objection, the objector shall obtain a hearing date in the manner provided in L.B.R. 5070-1.

(c) *Papers to Accompany an Objection.* The following papers shall accompany an objection:

- (1) A copy of the claim to which objection is made without exhibits or attachments;
- (2) A proposed form of order which, if entered by the court, would grant the relief sought by the objection. Each proposed form of order shall list in the lower left-hand corner of the signature page or on the left-hand side of an attached page(s), the name and address of the debtor, the claimant, the objecting party and the trustee to whom copies of the order, if entered, should be sent;
- (3) A certification of notice to the parties identified in paragraph (d).

(d) *Notice of the Hearing on Objection to Claims.* A notice of hearing substantially in the form of L.B.F. 3007-1 shall be mailed or delivered with a copy of the objection to the debtor, the claimant, and the trustee at least 30 days prior to the date set for a hearing.

(e) *No Response Required: Hearing.* No response is required to an objection to a claim. There shall be a hearing on an objection to a claim.

SOURCE

Subdivisions (a), (c) and (d) of this rule are derived from 97 L.B.R.3007.1.

Subdivisions (b) and (e) are new.

LOCAL BANKRUPTCY FORM 3007-1

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: _____ : Chapter _____
: _____
: _____
Debtor _____ : Bankruptcy No. _____

* * * * *

NOTICE OF OBJECTION TO CLAIM AND HEARING DATE

_____ has filed an objection to the proof of claim you filed in this bankruptcy case.

Your claim may be reduced, modified, or eliminated. You should read these papers carefully and discuss them with your attorney, if you have one.

If you do not want the court to eliminate or change your claim, you or your lawyer must attend the hearing on the objection, scheduled to be held before the Honorable (name of bankruptcy judge) on xx/xx/xx, at _____, in Courtroom ____, United States Bankruptcy Court (address of Bankruptcy Court). If you or your attorney do not attend the hearing on the objection, the court may decide that you do not oppose the objection to your claim.

Date: _____, _____ Attorney for Objector

[Attorney's name] _____
[Firm name] _____
[Address] _____
[Phone No.] _____
[Fax No.] _____

Local Rule 3015-1

Chapter 12 and Chapter 13 Plans

(a) *Summary of Plan.* A notice of the meeting of creditors under § 341 of the Code may include a summary of a chapter 12 or chapter 13 plan or of a portion of a plan applicable to a class of creditors.

(b) *Service.* The debtor shall serve a copy of the initial chapter 12 or chapter 13 plan on all priority and secured creditors and the trustee. The debtor shall file a certification of service within 7 days after the plan is filed.

(c) *Objection to Confirmation.* An objection to confirmation of a debtor's chapter 12 or chapter 13 plan or modified chapter 12 or chapter 13 plan shall be filed and served on the debtor, the debtor's counsel, the trustee, and the United States trustee no later than 7 days before the date of the hearing on confirmation of the plan or modified plan, unless the court otherwise permits.

SOURCE

Subdivision (a) is new. A copy or a summary of a chapter 12 or 13 plan must accompany the notice of the hearing on confirmation of the plan. F.R.B.P. 3015(d). Notice of the confirmation hearing is commonly given as part of the Notice of the Meeting of Creditors. Subdivision (a) makes it clear that a summary of the plan may be included with the notice.

Subdivision (b) is the same as 97 L.B.R. 3015.1

Subdivision (c) is derived from 97 L.B.R. 3020.1, except the time for filing and service of an objection is 5 days before the date of the confirmation hearing.

Local Rule 3015-2

Chapter 12 or Chapter 13 Plans: Modification

(a) Modification Before Confirmation

(1) Service of Modified Plan. If a modified chapter 12 or chapter 13 plan is filed before the scheduled hearing on confirmation, the debtor shall serve the modified plan on all priority and secured creditors, the trustee, the United States trustee, and on all other creditors who are adversely affected by the changes to the original plan. Service shall be made on the day the modified plan is filed and the debtor shall file a certification of service.

(2) Delinquencies in Plan Payments. If a modified plan, which is filed and served as required by subdivision (a)(1), provides for the reduction, abatement, or suspension of original plan

payments that are delinquent, a separate motion to reduce, abate, or suspend the delinquent payment need not be filed.

(3) Confirmation of Modified Plan. If a modified chapter 12 or chapter 13 plan is served less than (i) 21 days before the date of a chapter 12 confirmation hearing date, or (ii) 28 days before the date of a chapter 13 confirmation hearing date, the debtor shall advise the courtroom deputy for the judge to whom the case is assigned on or before the date of service that the confirmation hearing must be rescheduled.

(b) *Modification of a Confirmed Plan*.

(1) Motion. A confirmed chapter 12 or chapter 13 plan may be modified after confirmation under Code §§ 1229 or 1329 only on motion.

(2) Delinquencies in Plan Payment. If a motion to modify a confirmed plan is duly filed and served, a separate motion to reduce, abate, or suspend delinquent plan payments need not be filed.

SOURCE

Subdivisions (a)(1) and (a)(2) are derived from 97 L.B.R. 3019.1(a) and (b). Subdivision (a)(3) is a reformulation of 97 L.B.R. 3019.1(c). Subdivision (b) is derived from 97 L.B.R.

3019.1(d). A motion under subdivision (b) is subject to the general motion practice of L.B.R. 9014-3. An objection to the motion must be filed within 20 days. F.R.B.P. 3015(g).

Local Rule 3016-1

Chapter 11 Plans: Disclosure Statement Approval Required

(a) *Applicability*. This rule applies when a chapter 11 plan proponent is required by § 1125 to obtain approval of a disclosure statement before soliciting acceptance or rejection of a plan.

(b) *Filing of Disclosure Statement, Voting Procedures, and Disbursing Agent Proposal*. Unless the court orders otherwise, the proponent of a plan in a chapter 11 case shall file with the plan (1) the disclosure statement required by § 1125; (2) a motion for approval of the disclosure statement and for approval of plan voting procedures; and (3) if the plan provides for the liquidation of a material portion of the property of the estate and the distribution of the proceeds to creditors, a disbursing agent proposal conforming to subdivision (e).

(c) *When Considered by Court*. The court shall consider the motion for approval of voting procedures at the hearing on the disclosure statement. The court may consider the disbursing

agent proposal at the hearing on the disclosure statement or at the hearing on confirmation of the plan.

(d) *Motion for Approval of Disclosure Statement and Voting Procedures.* The motion for approval of a disclosure statement and voting procedures shall set forth the procedures for transmission of the voting materials and casting of ballots and be accompanied by a proposed order approving the voting procedures and fixing the dates for (1) mailing the voting materials; (2) casting ballots; (3) filing the report of voting; and (4) the confirmation hearing.

(e) *Disbursing Agent Proposal.* The disbursing agent proposal shall include (1) the name of a person competent and willing to serve as disbursing agent; (2) the duties to be performed by the disbursing agent; (3) the amount and costs of a bond or reasons why a bond should not be required, and (4) the method and source of payment of the disbursing agent.

(f) *Service of Documents:* The documents required to be filed under sub- divisions (b)(2) and (3) of this rule shall accompany the plan and disclosure statement that are mailed under F.R.B.P. 3017(a) to the debtor; the trustee, if one has been appointed; the committee; the Securities and Exchange Commission; any party in interest who requests in writing copies of the disclosure statement or plan; and the U.S. trustee.

(g) *Objections.* No later than 7 days before the hearing on the disclosure statement, an objection to a motion for approval of a disclosure statement or to the documents required to be filed under subdivisions (b)(2) shall be filed and served on the parties specified in subdivision (f), unless the court orders otherwise.

(h) *Small Business Cases.* In a small business case governed by F.R.B.P. 3017.1, subdivisions (b)-(e) and (g) apply except that a reference to a motion for approval of the disclosure statement and voting procedures shall be read as a reference to an application for conditional approval of the disclosure statement and approval of the voting procedures. The disbursing agent proposal required to be filed under subdivision (b)(3) shall be served with the application in accordance with L.B.R. 9013-1(e).

SOURCE

Subdivision (a) makes it clear that this rule only applies if a disclosure statement must be approved by the court prior to postpetition solicitation of acceptance or rejection of a plan. L.B.R. 3016-2 governs chapter 11 cases in which voting on a plan has been completed prepetition.

Subdivisions (b)-(e) are derived from 97 L.B.R. 3016-1.

Subdivision (g) is new. It establishes the time for filing an objection to a disclosure statement and related documents. The court by order may fix a different time to file an objection.

Subdivision (h). On December 1, 1997 new F.R.B.P. 3017.1, which governs small business cases, became effective. This subdivision adapts L.B.R. 3016-1 to the small business case in which an application for conditional approval of the disclosure statement is filed.

Local Rule 3016-2

Chapter 11 Plans: Compliance of Prepetition Solicitation with § 1126(b)

If a plan proponent submits with a chapter 11 plan evidence that there was prepetition solicitation of acceptance or rejection of the plan in compliance with § 1126(b), the court shall determine at the plan confirmation hearing whether the prepetition solicitation complied with § 1126(b).

SOURCE

This rule is new.

Local Rule 3021-1

Reports on Post-Confirmation Distribution

(a) *Plan Implementation Reports*. Unless otherwise provided in the confirmation order, an order closing the case, or a separate order the debtor, trustee, disbursing agent, or other person designated in a chapter 11 plan to make distributions to creditors after confirmation of a chapter 11 plan shall (1) prepare, file, and serve the interim and cumulative plan implementation reports required by this rule, and (2) request and give notice of the hearing to consider the cumulative plan implementation report.

(b) *Reporting Periods*. An interim plan implementation report shall be prepared for the following reporting periods: from the date of entry of the confirmation order through the last day of the calendar month, and for each of the next six full calendar months. If the confirmation order is entered less than 14 days before the end of the calendar month, the report for that initial period may be made as part of the report for the first full calendar month.

(c) *Cumulative Report*. A cumulative plan implementation report shall be prepared for either the reporting period from the date of entry of the confirmation order through the last day of the sixth full calendar month after the date of the entry of the confirmation order, or, if the plan distributions are completed before the end of the sixth full calendar month, the reporting period from the date of entry of the confirmation order through the last day of the full calendar month in which plan distributions are complete.

(d) *Contents of Report*. A plan implementation report shall include for the reporting period

- (I) the amount available for distribution at the beginning of the period;
- (ii) the source and amount of all funds received;
- (iii) the name of the institution where funds are deposited, the account number and name of the account, and the person who has signatory authority over the account;
- (iv) if funds are invested in instruments, the type, amount, and maturity date of the instruments; and
- (v) the names of the persons to whom distributions have been made and the amount of each distribution.

(e) *Time to File.* Plan implementation reports shall be filed on or before the 14th day after the end of the reporting period.

(f) *Service.* All plan implementation reports shall be served on the debtor and counsel for the debtor; members of any official committee and counsel to any committee, unless the committee's service terminated on confirmation of the plan or counsel is no longer retained by the committee; the United States trustee; and those on the Clerk's Service List. Unless the court otherwise directs, the cumulative plan implementation report shall also be served on all creditors.

(g) *Hearing on Cumulative Plan Implementation Report.* The court shall hold a hearing to consider the cumulative plan implementation report, whether the case should remain open, and whether additional plan implementation reports should be filed and such other matters as are brought before the court. Notice of that hearing shall be given to all persons who are served with a copy of the cumulative plan implementation report.

SOURCE

This rule is the same 97 L.B.R. 3021.1, except that in subdivision (a) reference is made to the possibility that the court may order that this rule does not apply.

Local Rule 4002-1

Debtor—Duties: Authority to Compensate

(a) *Authority to Compensate.* Subject to subdivision (b), the debtor may pay compensation for services to the debtor, if an individual, or to the members of a partnership, or to an officer of a corporation at a rate equal to or less than the annual rate of compensation paid to the person as of the 90th day before the filing of the petition or such other amount as the court orders for cause shown.

(b) *Termination of Authority to Compensate.* The debtor's authority to pay compensation under subdivision (a) terminates on the 45th day after the filing of the petition in a voluntary case or on the 45th day after the entry of an order for relief in an involuntary case unless the debtor gives notice as required by subdivision (c) and files the certification of notice by the last day of the applicable 45 day period.

(c) *Notice.* Within 45 days of the filing of a petition in a voluntary case or 45 days after the entry of an order for relief in an involuntary case, the debtor shall give the notice described in subdivision (d) by mail to (I) the members of any official committee and counsel for the committee or, if no committee has been appointed, the creditors holding the 20 largest unsecured claims, (ii) creditors holding secured claims, and (iii) the United States trustee. A certification of notice shall be filed.

(d) *Content of Notice.* The notice shall contain

- (i) the name of the person receiving compensation from the debtor under subdivision (a),
- (ii) a description of the position, title and duties of the person; and
- (iii) the rate of compensation paid to the person on the 90th day before the filing of the petition and the rate being paid by the debtor under subdivision (a).

(e) *Objections*

- (1) Form of Objection. An objection to the debtor's retention of a person or the amount of compensation paid to a person listed in the debtor's notice shall identify the objector and the basis of the objection. An objection shall state in bold type on the right hand side adjacent to the caption the date, time and place set for the hearing.
- (2) Scheduling of Hearing. Prior to the filing of an objection, the objector shall obtain a hearing date in the manner provided in L.B.R. 5070-1.

- (3) Papers to Accompany an Objection. The following papers shall accompany an objection:
- (i) a copy of the debtor's notice to which objection is made;
 - (ii) a proposed form of order which, if entered by the court, would grant the relief sought by the objection. Each proposed form of order shall list in the lower left-hand corner of the signature page or on the left-hand side of an attached page(s), the name and address of the debtor, the claimant, the objecting party and the trustee to whom copies of the order, if entered, should be sent;
 - (iii) a certification of notice to the parties required under subdivision (e)(4).
- (4) Notice of the Hearing on Objection. A notice of hearing on the objection shall be mailed or delivered with a copy of the objection to the debtor and the parties referred to in subdivision (c) of this rule at least 21 days before the date of the hearing.

(f) *No Response Required: Hearing.* No response is required to an objection filed under subdivision (e) of this rule. There shall be a hearing on the objection.

SOURCE

This rule is derived from 95 L.B.R. 4002.1. If a party objects to the debtor continuing to pay compensation as provided in subdivision (a), the objector obtains a hearing date and gives notice of the hearing date.

Local Rule 4003-1

Objections to Exemptions

(a) *Form of Objection.* An objection to an exemption filed under F.R.B.P. 4003(b) shall identify the objector and the basis for the objection. An objection shall state in bold type on the right-hand side adjacent to the caption the date, time and place set for the hearing on the objection.

(b) *Scheduling of Hearing.* Prior to filing an objection, the objector shall obtain a hearing date in the manner provided in L.B.R. 5070-1.

(c) *Papers to Accompany Objections.* The following papers shall accompany an objection:

(1) A proposed form of order which, if entered by the court, would grant the relief sought by the motion. Each proposed form of order shall list, in the lower left-hand corner of the signature page or on the left-hand side of an attached page(s), the names and addresses of all interested persons to whom it is suggested that copies of the order, if entered, should be sent.

(2) A certification of notice to the parties identified in paragraph (d).

(d) *Notice of Hearing on Objection to Exemption.* A notice of hearing substantially in the form of L.B.F. 4003-1 shall be mailed or delivered with a copy of the objection to the trustee, the debtor or other person who claimed the exemption, and the attorney for the debtor or other person who claimed the exemption at least 28 days before the date of the hearing.

(e) *No Response Required: Hearing.* No response is required to an objection to an exemption. There shall be a hearing on an objection to an exemption.

SOURCE

This rule is new. The time within which to object to a claim of exemption is fixed by F.R.B.P. 4003(b) which requires that an objection must be filed "within 30 days after the conclusion of the meeting of creditors . . . or the filing of any amendment" to the list of exemptions.

LOCAL BANKRUPTCY FORM 4003-1

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: _____ : Chapter _____
: _____
: _____
Debtor : _____ Bankruptcy No. _____

* * * * *

**NOTICE OF OBJECTION TO CLAIM OF
EXEMPTION AND HEARING DATE**

_____ has filed an objection to your claim of exemption in this bankruptcy case.

Your claim of exemption may be eliminated or changed by the court because an objection has been filed. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult an attorney.)

If you do not want the court to eliminate or change your claim of exemption, or if you want the court to consider your views, you or your lawyer must attend the hearing on the objection, scheduled to be held before the Honorable (____ name of bankruptcy judge ____) on xx/xx/xx, at _____, in Courtroom _____, United States Bankruptcy Court (____ address of Bankruptcy Court ____).

Date: _____, _____ Attorney for Objector

[Attorney's name]
[Firm name]
[Address]
[Phone No.]
[Fax No.]

Local Bankruptcy Rule 4004-1

Discharge: Discharge Hearings

(a) Chapter 7 Debtor's Motion to Defer Entry of Discharge Order. A motion of a chapter 7 debtor under F.R.B.P. 4004(c) to defer entry of a discharge order is governed by L.B.R.9014-2 (Motions Determined Without Hearing).

(b) Chapter 7 Case

- (1) A discharge order will be entered unless a motion for approval of a reaffirmation agreement is pending or the debtor has requested that a discharge hearing be held.
- (2) If a motion for approval of a reaffirmation agreement is pending, the debtor has requested that a discharge hearing be held, or the court directs, the clerk shall schedule a discharge hearing and give notice of the hearing to the debtor, debtor's counsel, and the trustee.

(c) Chapter 12 or Chapter 13 Case

- (1) On completion of the payments under a confirmed chapter 12 or chapter 13 plan, the trustee shall promptly file a final report.
- (2) The clerk shall promptly give notice to the debtor, debtor's counsel, and all creditors provided for in the plan that
 - i. the final report has been filed; and
 - ii. any objection to the final report must be filed within 21 days from the date of the notice and served on the debtor and the debtor's counsel.
- (3) A discharge order will be entered unless an objection to the trustee's final report is filed, a motion for approval of a reaffirmation agreement is pending or subsections (f), (g) or (h) of § 1328 of the Code are applicable.
- (4) If a motion for approval of a reaffirmation agreement is pending, an objection to the trustee's final report is timely filed, or the court directs, the clerk shall schedule a discharge hearing and give notice of the hearing to the debtor, debtors' counsel, the trustee, and to any objector.

SOURCE

Subdivision (a) is new. A request to defer entry of a discharge order under F.R.B.P. 4004(c) is made by motion and determined by the court without hearing.

Subdivisions (b) and (c) are derived from 97 L.B.R. 4008.1, and 4008.2.

EXPLANATORY NOTE (2009)

This amendment to L.B.R. 4004-1(c)(3) and (3) corrects a technical error by eliminating a reference to a “debtor’s statement,” a document that is not otherwise referenced in the local rules. The amendment also implements the 2005 amendments to § 1328 of the Code, which impose certain requirements that must be satisfied before a chapter 13 discharge order may be entered.

EXPLANATORY NOTE (2008)

This amendment eliminated the requirement previously set forth in L.B.R. 4004(b) that the trustee provide a chapter 7 debtor with a “Discharge Information Sheet,” L.B.F. 4004-1. This amendment also eliminated the requirement previously set forth in L.B.R. 4004(c) that the Clerk provide chapter 12 and chapter 13 debtors with a “Discharge Information Sheet,” L.B.F. 4004-2. Both L.B.F. 4004-1 and L.B.F. 4004-2 have been stricken.

Local Rule 5001-1

Court Administration

(a) Emergency Judge.

- (1) The judge who is designated as “Emergency Judge” shall act instead of the judge to whom a case is assigned whenever the assigned judge is absent from the Courthouse and cannot feasibly return prior to the expiration of the time within which judicial action is required.
- (2) Whenever counsel requests immediate judicial action, the clerk shall contact the assigned judge and in the event that the judge cannot be reached or the judge consents to action by the Emergency Judge, the Emergency Judge shall act in accordance with paragraph (1) of this subdivision.
- (3) If the Emergency Judge is required to hold an extensive hearing or otherwise perform a substantial amount of work, the clerk may, at the request of the

Emergency Judge and with the consent of the assigned judge, reassign the case to the Emergency Judge for all purposes.

- (4) All inquiries concerning the Emergency Judge should be referred to the clerk who shall obtain complete information concerning the nature of the emergency, the name of the case, the names and telephone numbers of counsel and shall provide this information to the Emergency Judge who shall determine what action, if any, is required of the Emergency Judge.

(b) *Division of Court.* Where it appears from the petition that the debtor's domicile, residence, principal place of business or principal assets were located for the 180 days immediately preceding the commencement of the case (or for a longer portion of such 180 day period than they were located elsewhere) in Bucks County, Chester County, Delaware County, Lancaster County, Montgomery County, or Philadelphia County, the case shall be assigned to the Philadelphia Division. All other cases shall be assigned to a judge of the Reading Division.

(c) *Assignment of Cases*

- (1) Each case in the Philadelphia Division shall be assigned as soon as possible by a blind lottery method to a judge of the Philadelphia Division.
- (2) If the filed papers indicate a later case is related to an earlier filed case, the clerk shall assign the later case to the same judge to whom the earlier case is assigned and notify the judge of that assignment. If the judge receiving the later case is of the opinion that a relationship does not exist, the receiving judge may refer the case to the clerk for assignment by the blind lottery method in the same manner as if it were a newly filed case.
- (3) Whether the relationship between the later case and the earlier case is or is not indicated on the filed papers, (A) any interested party may file a motion requesting the judge to whom a case is assigned to reassign the case to another judge, and (B) the judge to whom a case is assigned may determine that a case is related to another numbered case or is more appropriately heard by another judge and may, with the consent of the receiving judge, refer the case to the receiving judge.

SOURCE

Subdivision (a) is derived from 97 L.B.R. 5001.1.

Subdivision (b) is derived from 95 L.B.R. 5001.2(a).

Subdivision (c) is derived from 97 L.B.R. 5001.2(b)-(e).

EXPLANATORY NOTE (2006)

The District Court Order of December 13, 2006 designated the amended rule as an interim amended rule subject to reevaluation, with any further proposed amendments to be subject to the requirements of notice and publication.

Local Rule 5003-1

Documents Filed Under Seal

- (a) A document may be filed under seal only if:
- (1) the action is brought pursuant to a federal statute that prescribes the sealing of the record or of certain specific documents; or
 - (2) the Court orders the document sealed.
- (b)
- (1) Where a document is sealed pursuant to L.B.R. 5003-1(a)(1), the continued status of the document under seal shall be governed by the relevant federal statute. If no federal statute governs, L.B.R. 5003-1(b)(2) and (3) shall apply.
 - (2) When a document is sealed pursuant to L.B.R. 5003-1(a)(2), the document, if it remains in the custody of the Court, shall not be unsealed for two years after the conclusion of the action including all appeals, unless the Court orders otherwise.
 - (3) If a document is still sealed at the conclusion of the two-year period and the Court has not entered an order continuing its sealed status beyond that time, the Clerk of Court shall notify the attorney for the party having submitted the sealed document at the attorney's address on the docket that the document will be unsealed unless the attorney or the submitting party advises the Clerk within sixty (60) days that said attorney or the submitting party objects. If the attorney or submitting party objects to the unsealing of the document or if the Clerk's notification is returned unclaimed, the Court will make a determination, on a case-by-case basis, whether to maintain the document under seal, to unseal it, or to require further notification.

EXPLANATORY NOTE (2008)

This rule is new. It is based on the local rule of the district court addressing the same subject matter.

Local Rule 5005

Filing by Electronic Means

Documents may be filed, signed and verified by electronic means in accordance with the procedures set forth in the Standing Order re: Electronic Case Filing, dated April 1, 2003, as it may be amended from time to time by the court. A document filed pursuant to this rule constitutes a written paper for the purpose of these Local Bankruptcy Rules, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure and §107 of the Bankruptcy Code.

Local Rule 5009-1

Closing of Chapter 11 Cases

(a) *Notice.* No later than 180 days after the confirmation of a chapter 11 plan, the clerk shall give notice to counsel for the debtor or former debtor and to counsel to any official creditors' committee of subdivision (b) of this rule.

(b) *Final Decree.* Within the later of 180 days after confirmation of a chapter 11 plan or the conclusion of the hearing to consider the cumulative plan implementation report held under L.B.R. 3021-1, the court shall enter a Final Decree closing the case, unless a motion to keep the case open for cause is filed within the 180 day period.

SOURCE

Subdivision (a) is new.

Subdivision (b) is the same as 97 L.B.R. 3022.1.

Local Rule 5011-1

Withdrawal of Reference

(a) *Motion and Brief.* A motion for withdrawal of a case or proceeding under 28 U.S.C. § 157(d) shall be accompanied by a form of order which, if approved by the court, would grant the relief sought by the movant and a brief containing a concise statement of the legal contentions and authorities relied on in support of the motion.

(b) *Caption.* The caption of a motion for withdrawal shall conform substantially to L.B.F. 5011-1.

(c) *Filing.* An original of the motion, proposed order, and brief shall be filed with the clerk of the bankruptcy court and a copy of each shall be filed on the same day with the clerk of the district court.

(d) *Docketing in District Court.* The clerk of the district court shall promptly docket the motion for withdrawal as a miscellaneous matter.

(e) *Service.* The movant shall serve the motion, proposed order, and brief on

1. the parties in interest listed in L.B.R. 9014-3(g), if the motion is to withdraw the case, or
2. the parties to an adversary proceeding, if the motion is to withdraw an adversary proceeding.

(f) *Opposition.* Unless the district court directs otherwise, any party opposing the motion shall file with the district court and serve on the movant and the parties referred to in paragraphs (e)(1) or (e)(2) of this rule, whichever is appropriate, a brief in opposition, together with such answer or other response which may be appropriate, within 14 days after service of the motion and supporting brief.

(g) *Further Proceedings in District Court.* Rule 7.1 of the Local Rules of Civil Procedure governs all proceedings in the district court relating to the motion for withdrawal.

SOURCE

This rule is new and is designed to facilitate the district court's consideration of a motion to withdraw the reference.

LOCAL BANKRUPTCY FORM 5011-1

CAPTION OF MOTION FOR WITHDRAWAL

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Miscellaneous Matter No. _____

In re:

:
:
:
:
:
:

Chapter _____

Debtor

Bankruptcy Court No. _____

MOTION OF

FOR WITHDRAWAL OF REFERENCE

Local Rule 5070-1

Calendars and Scheduling

(a) *Hearing Dates.* A person who files a motion, application, objection, or notice for which a hearing is required under a F.R.B.P. or for which these rules require the scheduling of a hearing shall, before filing the paper, consult with the courtroom deputy for the judge to whom the case is assigned to obtain a hearing date on the judge's calendar. The hearing date shall allow for adequate time for the movant or objector to complete any service or notice required by the F.R.B.P. or these rules.

(b) *Completion of Hearing.* If a hearing is called on the day scheduled but not completed, the court may continue the hearing to a date certain without further written notice.

(c) *Rescheduling by Court.* If the Court, on its own initiative, reschedules a hearing date or cancels a scheduled hearing, the courtroom deputy, unless the court directs otherwise, shall notify all interested parties of the new hearing date or the cancellation.

(d) *Party-Initiated Informal Request to Reschedule.* A party who desires to reschedule a matter scheduled before the court shall consult with all other interested counsel to attempt to reach an agreement to reschedule the matter to a date certain. If the interested parties agree to reschedule the matter to a date certain, the party who initiated the proposed rescheduling shall, under subdivision (a) of this rule, consult with the courtroom deputy for the judge to whom the case is assigned to request rescheduling of the hearing. Approval of a new hearing date is at the discretion of the court. If a new hearing date is assigned, the party who initiated the rescheduling shall give notice promptly to the interested parties of the new hearing date.

(e) *Motion to Reschedule.* If any of the interested parties do not agree to reschedule a matter, if the interested parties are unable to agree on a proposed new date, or if an informal request to reschedule is not granted, the party requesting the rescheduling must proceed by motion under L.B.R. 9014-3, by oral motion in open court made at the scheduled hearing, or during a telephone conference convened under L.B.R. 9076-1.

(f) *Expedited Consideration.*

(1) Consultation. A party who desires to obtain a hearing date earlier than the hearing date that would ordinarily be assigned under subdivision (a) of this rule or other expedited consideration, shall, to the extent practicable, consult with all other interested parties to attempt to reach an agreement that an expedited hearing is appropriate and on the suggested hearing date or dates.

(2) Content of Motion. A motion for expedited consideration shall set forth

(I) with particularity the reasons supporting the need for expedited consideration;

- (ii) who was provided a copy of the motion or given notice of the motion for expedited consideration before the motion was filed, when and how the notice was given, and with whom the movant consulted in accord with subdivision (f)(1); and
 - (iii) what agreement, if any, resulted from the consultation with other interested parties.
- (3) Combined Motion. A motion for expedited consideration may be stated as part of the underlying motion or application for which expedited consideration is requested. The title of the underlying motion or application shall indicate the motion or application also includes a motion for an expedited hearing date or other expedited consideration.
- (4) Papers to Accompany Motion. The motion for expedited consideration shall be accompanied by
- (i) a proposed order that grants expedited consideration by fixing an early hearing date or other expedited consideration and provides for a method of prompt service of the order as well as the underlying motion or application, and
 - (ii) unless a combined motion under paragraph (f)(3) is filed, a copy of the underlying motion or application for which expedited consideration is requested.
- (5) Disposition. A motion for expedited consideration may be determined without a hearing under L.B.R. 9014-2. If the Court grants an expedited hearing, the court may fix the hearing for the date requested or some other date.

SOURCE

Subdivision (a) is new.

Subdivision (b), which is derived from 97 L.B.R. 1017.2(f), is expanded to apply to all scheduled hearings.

Subdivision (c) is a revised version of 97 L.B.R. 9013.2(b).

Subdivisions (d) and (e) are based on 97 L.B.R. 9013.2(a) and (c) respectively. Because time may be an important factor, subdivision (e) authorizes a party seeking rescheduling to request a telephone conference with the court.

Subdivision (f) is a revision of 97 L.B.R. 9014.2. A motion for expedited consideration may be determined without a hearing.

Local Rule 5080-1

Fees—Generally

If a document, other than a petition, for which there is a filing fee is accompanied by an application to waive the filing fee (I) the clerk shall accept the document for filing, and (ii) the document is deemed filed on the day it is delivered to the clerk unless the application is denied and the filing fee is not paid within 14 days of entry of the order denying the application. The application may be determined without hearing.

SOURCE

97 L.B.R. 9004.1(c)

Local Rule 5081-1

Fees—Form of Payment

The Clerk shall accept cash, money orders, certified checks, or checks drawn on attorney's accounts made payable to the "Clerk, United States Bankruptcy Court" and the Clerk may also accept major credit cards.

SOURCE

This rule is derived from 97 L.B.R. 1002.2(b). Whether a fee may be paid by use of a major credit card is matter within the discretion of the Clerk.

Local Rule 6004-1

Motion to Sell Free and Clear of Liens or Other Interests

A motion to sell free and clear of liens or other interests under F.R.B.P. 6004(c) is governed by L.B.R. 9014.3 except that an objection rather than an answer shall be filed and served on the movant or, if the movant is represented, counsel for the movant no later than 14 days after the date on which the movant serves the motion.

SOURCE

This rule is new. Rule 6004(c) requires that if a sale is to be free and clear of liens a motion must be filed. When a motion to sell free and clear is filed the notice of the intent to sell which must be given to all creditors under Rule 6004(a) must include the date of the hearing and the time to file an objection. This rule fixes the time to file an objection to a motion to sell free and

clear at 15 days after the date of service. This period is the same as the 15 day period to answer other motions under L.B.R. 9014-3.

Local Rule 6007-1

Objections to Abandonment

(a) *Form of Objection.* An objection to a proposed abandonment or disposition of property shall identify the objector and state the basis of the objection. An objection shall state in bold type on the right hand side adjacent to the caption the date, time, and place of the hearing on the objection.

(a) *Scheduling of Hearing.* Prior to the filing of an objection, the objector shall obtain a hearing date in the manner provided in L.B.R. 5070-1.

(c) *Papers to Accompany an Objection.* The following papers shall accompany an objection:

(1) A copy of the notice to which objection is made;

(2) A proposed form of order which, if entered by the court, would grant the relief sought by the objection. Each proposed form of order shall list in the lower left-hand corner of the signature page or on the left-hand side of an attached page(s), the names and addresses of interested parties to whom it is suggested copies of the order, if entered, should be sent;

(3) A certification of notice prepared as required by L.B.R. 9014-4.

(d) *Notice of the Hearing on Objection.* On the day the objection is filed, the objector shall give notice of the date, time, and place of hearing on the objection to the debtor or trustee who gave notice of the proposed abandonment, the United States trustee, and those on the Clerk's Service List. The notice to the debtor or trustee who gave the notice of the proposed abandonment and to the United State trustee shall be accompanied by a copy of the objection.

(c) *No Response Required: Hearing.* No response is required to an objection. There shall be a hearing on an objection.

SOURCE

This rule is new. F.R.B.P. 6007(a) requires that a debtor or trustee give notice of his intent to abandon property of the estate and permits an objection to be filed within 15 days.

Local Rule 7003-1

Adversary Proceeding Cover Sheet

Any complaint filed under Part VII of the F.R.B.P. shall be accompanied by an Adversary Proceeding Cover Sheet which shall be provided by the clerk.

Local Rule 7005-1

Motions in Adversary Proceedings

(a) *Incorporation of General Motion Practice.* The following L.B.R. apply to motions filed in adversary proceedings:

L.B.R. 9014-3(b)	Form
L.B.R. 9014-3(c)	Scheduling of Hearing
L.B.R. 9014-3(d)	Filing
L.B.R. 9014-3(f)(1)-(3)	Papers to Accompany Motion
L.B.R. 9014-3(I)	Answer to Motion
L.B.R. 9014-3(j)	Determination Without Hearing

(b) *Summary Judgment Motions.* A summary judgment motion to which no timely answer is filed under L.B.R. 9014-3(I) is governed by Fed.R.Civ.P. 56(c).

(c) *Discovery Motions.* A motion relating to discovery is governed by L.B.R. 7026-1. A routine motion to compel discovery may be ruled on by the court before the time to answer under L.B.R. 9014-3(I) expires.

SOURCE

This rule incorporates most of the general motion practice provisions of L.B.R. 9014-3. Service is made on the parties to the adversary proceeding.

Local Rule 7016-1

Pretrial Statement

(a) If the court orders a pretrial statement but does not specify the form and content of the pretrial statement, counsel shall jointly prepare the pretrial statement in the manner described in District Court Local Civil Rule 16.1(d) 2.(a) and address the following:

1. Basis of jurisdiction, and also state whether the matter is core or non-core. If the matter is non-core, the parties shall state whether they have consented in their pleadings to the court's entry of a final order under 28 U.S.C. § 157(c)(2) and, if they

have not consented in their pleadings, the parties shall state whether they now consent to the court's entry of a final order under 28 U.S.C. § 157(c)(2).

2. Statement of uncontested facts.
3. Statement of facts which are in dispute.
4. Damages or other relief. A statement of damages claimed or relief sought. A party seeking damages shall list each item claimed under a separate descriptive hearing, shall provide a detailed description of each item and state the amount of damages claimed. A party seeking relief other than damages shall list the exact form of relief sought with precise designations of persons, parties, places and things expected to be included in any order providing relief.
5. Legal issues presented set forth in separate paragraphs and the constitutional, statutory, regulatory and decisional authorities relied on. (Counsel should include a brief statement regarding which party has the burden of proof on each legal issue.)
6. Witnesses' names and addresses listed separately for liability and damages in the order they will be called along with a brief statement of the evidence the witnesses will give. Expert witnesses shall be identified as experts and a summary of the experts' qualifications shall be attached.
7. A list of all exhibits to be offered into evidence which shall be serially numbered and physically marked before trial in accordance with the schedule.
8. A list of each discovery item and trial deposition to be offered into evidence. (Counsel shall designate by page the portion of deposition testimony and by number the interrogatories which shall be offered in evidence at trial.)
9. Estimated trial time.
10. A certification that the parties have attempted good faith settlement discussions without success.

SOURCE

This rule was initially a revision of 97 L.B.R. 7016.1. It was further modified, effective December 11, 2000, to delete former subdivision (a) as inconsistent with F.R.Civ.P. 26, which became effective on December 1, 2000. Current subdivision (a) is former subdivision (b).

Local Rule 7023-1

Class Actions

Rule 23.1 of Local Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania, set forth as follows, shall apply in all adversary proceedings:

Rule 23.1 Class Actions

In any case sought to be maintained as a class action:

- (a) The Complaint shall bear next to its caption the legend, "Complaint— Class Action."
- (b) The Complaint shall contain under a separate heading, styled "Class Action Allegations."
 - (1) A reference to the portion or portions of Rule 23, Fed.R.Civ. P., under which it is claimed that the suit is properly maintainable as a class action.
 - (2) Appropriate allegations thought to justify such claim, including, but not necessarily limited to:
 - A. The size (or approximate size) and definition of the alleged class,
 - B. The basis on which the plaintiff (or plaintiffs) claims
 - (i) to be an adequate representative of the class, or
 - (ii) if the class is comprised of defendants, that those named as parties are adequate representatives of the class.
 - C. The alleged questions of law and fact claimed to be common to the class, and
 - D. In actions claimed to be maintainable as class actions under subdivision (b)(3) of Fed.R.Civ.P. 23, allegations thought to support the findings required by that subdivision.

(c) Within ninety (90) days after the filing of a complaint in a class action, unless this period is extended on motion of good cause appearing, the plaintiff shall move for a determination under subdivision (c)(1) of Fed.R.Civ.P. 23, as to whether the case is to be maintained as a class action. In ruling on a motion, the Court may allow the action to be so maintained, may disallow and strike the class action allegations, or may order postponement of the determination pending discovery of such other preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the Court for renewal of the motion.

(d) The foregoing provisions shall apply, with appropriate adaption, to any counterclaim or cross-claim alleged to be brought for or against a class.

SOURCE

97 L.B.R. 7023.1.

Local Rule 7026-1

Discovery

(a) *General.* Rule 26.1(a)-(f) of the Local Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania, set forth as follows, shall apply in all proceedings:

Rule 26.1 Discovery

(a) Interrogatories, requests for production and inspection and requests for admission under Fed.R.Civ.P. 33, 34 and 36, answers, responses, and objections to interrogatories and to requests under Fed.R.Civ.P. rules 34 and 36, and notices of deposition and depositions under Fed.R.Civ.P. 30 and 31 shall not be filed with the court. The party serving the discovery material or taking the deposition shall retain the original and be the custodian of it.

(b) Every motion under the Federal Rules of Civil Procedure governing discovery shall identify and set forth, verbatim, the relevant parts of the interrogatory, request, answer, response, objection, notice, or subpoena, or dispositions. Any party responding to the motion shall set forth, verbatim, in that party's memorandum any other part that the party believes necessary to the Court's consideration of the motion.

(c) If material in interrogatories, requests, answers, responses, or depositions is used as evidence in connection with any motion, the relevant parts shall be set forth, verbatim, in the moving papers or in responding memoranda. If it is used as evidence at trial, the party offering it shall read it into the record, or if directed to do so by the Court, offer it as an exhibit.

(d) The Court shall resolve any dispute that may arise about the accuracy of any quotation or discovery material used as provided in sections (b) and (c) and may require production of the original paper or transcript.

(e) The Court, on its own motion, on motion by any party or an application by a non-party, may require the filing of the original of any discovery paper or deposition transcript. The parties may provide for such filing by stipulation.

(f) No motion or other application under the Federal Rules of Civil Procedure governing discovery or under this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.

(b) *Motions to Compel*. A routine motion to compel answers to interrogatories or to compel compliance with a request for production under Fed.R.Civ.P. 34, because no response or objection has been timely served, shall be accompanied by a copy of the interrogatories or Rule 34 request but a brief need not be filed. The court may summarily grant or deny such motion without waiting for a response.

SOURCE

Former subdivision (a) was deleted, effective December 11, 2000, as inconsistent with F.R.Civ.P. 26, which became effective December 1, 2000. Current subdivision (a) is former subdivision (b) and is the same as 97 L.B.R. 7037.1. The reference to the Local Civil Rule is now to Local Civil Rule 26 to conform to the 1995 amendments to Local Civil Rules. Current subdivision (b) is former subdivision (c) and is a revised version of Local Civil Rule 26.1(g).

Subdivision (b) is the same as 97 L.B.R. 7037.1. The reference to the Local Civil Rule is now to Local Civil Rule 26 to conform to the 1995 amendments to Local Civil Rules.

Subdivision (c) is a revised version of Local Civil Rule 26.1(g).

Local Rule 7041-1

Notice of Dismissal of Adversary Proceeding

Before any adversary proceeding shall be involuntarily dismissed as to a debtor or other party who is the plaintiff in any adversary proceeding, notice shall be given by the clerk to the debtor or the party and to their counsel.

SOURCE

97 L.B.R. 7041.1.

Local Rule 7041-2

Settlement of Adversary Proceedings and Contested Matters

Whenever, in an adversary proceeding or contested matter, counsel notifies the courtroom deputy for the judge to whom the adversary proceeding or contested matter is assigned that the issues between the parties have been settled, the parties shall file any necessary stipulation and

any requisite motion to compromise or settle within 30 days, or the adversary proceeding or contested matter may be dismissed at the discretion of the court. A motion to extend the time, for cause shown, may be filed within the 30 day period.

SOURCE

This rule is a revised version of 97 L.B.R. 7041.2.

Local Rule 8001-1

Transmittal of Notice of Appeal to Bankruptcy Judge: Opinion in Support of Order

(a) *Transmittal of Notice of Appeal to Bankruptcy Judge.* On the day a notice of appeal is filed, an appellant shall mail or deliver a copy of the notice of appeal to the bankruptcy judge whose order is the subject of the appeal. The failure of an appellant to provide a copy of the notice of appeal to the bankruptcy judge shall not affect the jurisdiction of the district court to hear the appeal.

(b) *Opinion in Support of Order.* The bankruptcy judge whose order is the subject of an appeal may, within 14 days of the filing of the notice of appeal, file a written opinion in support of the order or a written supplemental opinion that amplifies any earlier written opinion or recorded oral bench ruling or opinion.

SOURCE

This rule is derived from L.A.R. 3.1 of the Third Circuit's Local Rules. Under subdivision (b) of this rule, a bankruptcy judge has the same opportunity as a district judge to file an opinion after an appeal has been taken.

Local Rule 8001-2

Motions Filed in Connection with an Appeal

(a) *General.*

(1) This rule applies to motions relating to an appeal that may be determined by a bankruptcy judge, including a motion under F.R.B.P 8001(c)(1) to withdraw an appeal before the appeal is docketed; under F.R.B.P 8002(c) for an extension of the time to appeal, if the motion is filed after the expiration of the time to appeal; and under F.R.B.P 8005 for a stay of the judgment, order, or decree appealed from.

(2) A motion under F.R.B.P. 8002(c) for an extension of the time to appeal, if the motion is filed before the expiration of the time to appeal, is governed by Rule 9014-3, *Motions Determined Without Hearing*.

(b) *Incorporation of General Motion Practice*. The following L.B.R. apply to a motion relating to an appeal that may be determined by a bankruptcy judge:

L.B.R. 9014-3(b)	Form
L.B.R. 9014-3(c)	Scheduling of Hearing
L.B.R. 9014-3(d)	Filing
L.B.R. 9014-3(f)(1)-(3)	Papers to Accompany Motion
L.B.R. 9014-3(I)	Answer to Motion
L.B.R. 9014-3(j)	Determination Without Hearing

(c) *Service of Motion*. On the day the motion is filed, the movant shall, in accordance with F.R.B.P. 8008(b), serve a Notice of Motion and Hearing Date substantially in the form of L.B.F. 9014-3, the proposed order, and a copy of the motion (assembled in that order) on the parties to the appeal, or, if represented, their counsel of record.

SOURCE

The three motions listed in subdivision (a)(1) require disposition by the bankruptcy judge. The motion practice for these motions is the same as the general motion practice under L.B.R. 9014-3 except that under subdivision (c) of this rule service is made only on the parties to the appeal. Notice does not have to be provided to those on the Clerk's Service List.

A motion for leave to appeal under 28 U.S.C. § 158(a), which is governed by F.R.B.P. 8003, is not subject to L.B.R. 8001-1. Although this motion and an answer to the motion are filed with the clerk of the bankruptcy court, the district court rules on the motion.

Local Rule 9004-1

Papers

(a) *General*. All papers submitted to the clerk for filing shall measure 8½ x 11 inches and shall be stapled or fastened at the top.

(b) *Date Stamped Copies of Filed Papers*.

- (1) The clerk shall, if requested at the time of filing, date-stamp one copy of any paper that is filed.
- (2) If a paper that is filed by mail is accompanied by a copy of the paper and a self-addressed, stamped envelope, the clerk shall date-stamp the copy and mail the copy to the person who filed the paper.

SOURCE

This rule is a revision of 97 L.B.R. 9004.1(a)-(c).

Local Rule 9004-2

Caption

All pleadings, motions, applications, objections, and any other papers filed with the clerk shall contain a caption in a form described as follows:

(I) appearing at the top of the first page and centered thereon shall be:

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

(ii) appearing below the name of the court and to the left of center shall be the name of the debtor who shall be identified as such. In an adversary proceeding only, the name of the plaintiff and the defendant in that order shall be shown below that of the debtor;

(iii) appearing below the name of the court and to the right of center shall be the chapter of the case in which the pleading is being filed;

(iv) appearing below the chapter of the case shall be the bankruptcy number of the case and, if applicable, any adversary number; and

(v) appearing below that which is specified in (I) through (iv) of this rule, and centered shall be the full title of the pleading, motion, application, objection, or other paper which includes the name of the proponent and describes the relief requested.

SOURCE

This rule is the same as 97 L.B.R. 9004.2 except for the addition of the phrase "describes the relief requested" at the end of the last paragraph of the rule. This addition is intended to make it clear that the title of a motion, application, or other paper should effectively communicate what relief is sought from the court. A title adequately describes the relief requested if it is plain from the title what the motion, application, or other paper is about and what specific relief is sought. For example, if the motion is for relief from the automatic stay to permit foreclosure of a lien on real property, the title of the motion should state as follows: "Motion of Bank of Philadelphia for Relief from the Automatic Stay to Permit the Bank of Philadelphia to Foreclose on 333 Main Street, Philadelphia, PA."

Local Rule 9008-1

Publication of Notices

(a) *General.* Whenever a notice is to be given by publication, unless the court orders otherwise, the notice shall be published one time in a newspaper of general circulation in the county of the debtor's last known address and one time in the legal periodical, if any, that serves that county.

(b) *Official Newspaper.* The Legal Intelligencer of Philadelphia, Pennsylvania, is hereby designated as the official newspaper of the United States Bankruptcy Court for the Eastern District of Pennsylvania for the publication of notices of petitions filed, discharges granted or denied, opinions entered, trial lists, dismissals, the official rules and any other announcement concerning court administration.

SOURCE

This rule is a revision of 97 L.B.R. 9008.1.

Local Rule 9010-1

Attorneys—Appearance

(a) *Notice of Appearance.* A notice of appearance filed under F.R.B.P. 9010(b) shall also include the fax number of the attorney filing the appearance.

(b) *Filing Petition as Appearance for Debtor.* The filing of a petition in bankruptcy by an attorney on behalf of a debtor shall constitute an entry of appearance in any and all matters arising during the administration of the case including, but not limited to, all applications, motions, and adversary proceedings.

(c) *Filing Paper as Appearance.* An attorney who files any application, motion, stipulation, or other paper with the clerk shall be deemed to have entered an appearance for the party on whose behalf the paper is filed.

(d) *Change of Address: Filing.* Any attorney who has entered an appearance shall advise the clerk of any change of address of the attorney's office, or a change of address of the entity on whose behalf the attorney has made an entry of appearance, by filing with the clerk a Request to Note Change of Address which shall request that the clerk note the change of address on the bankruptcy court docket and the Clerk's Service List.

(e) *Change of Address: Notice.* An attorney who files a request under subdivision (d) shall mail a copy of the request to any trustee in the case and to any attorney who has entered an

appearance in an adversary proceeding or contested matter which is pending at the time the above request is filed with the clerk.

SOURCE

Subdivision (a) is new.

Subdivision (b) is the same as 97 L.B.R. 9010.2.

Subdivisions (c)-(e) are the same as subdivisions (c)-(e) respectively of 97 L.B.R. 9010.1.

Local Rule 9011-1

Information Accompanying Signature

Any document filed in the case shall include the name, address, telephone number and the fax number of the person signing the document.

SOURCE

This rule is new.

Local Rule 9013-1

Applications

(a) *Form.* An application shall identify the applicant, the nature of the relief sought, and the basis for the relief sought.

(b) *Papers to Accompany Applications.* The following papers shall accompany each application:

- (1) a proposed form of order which, if entered by the court, would grant the relief sought by the application. Each proposed form of order shall list, in the lower left-hand corner of the signature page or on the left-hand side of an attached page(s), the names and addresses of all interested persons to whom it is suggested that copies of the order, if entered, should be sent, and
- (2) if the court imposes a general requirement that applications be accompanied by a cover sheet, a cover sheet substantially conforming to the form of cover sheet that accompanies the court's order.

(c) *Applications for Compensation of a Professional.* L.B.R. 2016 governs the giving of notice and the service as well as the time to object to an application for compensation of a professional.

(d) *Applications Considered Without a Hearing.* The court may consider without a hearing an application

- (1) under F.R.B.P. 1006(b) for payment of filing fees in installments;
- (2) under F.R.B.P. 2007.1(c) for approval of the appointment of an elected or appointed trustee or an examiner;
- (3) under F.R.B.P. 2014(a) for approval of the employment of bankruptcy counsel to represent a trustee, debtor in possession, or a creditors' committee; or
- (4) under L.B.R. 5080-1 for waiver of a filing fee.

(e) *Accelerated Procedure.* An application which is permitted under F.R.B.P., but is not governed by subdivisions (c) or (d), is governed by this subdivision. This subdivision applies to an application under F.R.B.P. 2014(a) for approval of the employment of a professional who will serve in a case as other than bankruptcy counsel and under F.R.B.P. 3017.1 and L.B.R. 3016-(g) for conditional approval of a disclosure statement.

(1) Notice. On the day an application is filed, the applicant shall give notice of the filing of the application and of the requirement that any objection to the application must be filed and served on the applicant, or if the applicant is represented, counsel for the applicant within 7 days of the date on which the application is filed to the

- (i) the debtor;
 - (ii) the United States trustee;
 - (iii) any trustee or interim trustee; and
 - (iv) any official committee or, if no committee has been appointed in a chapter 11 case, 20 largest unsecured creditors of the debtor;
- (2) Certification of Notice and Whether any Objection Has Been Filed. After the expiration of the 7 day period to file an objection, the applicant shall file a certification of notice, prepared as required by L.B.R. 9014-4, which also certifies whether any timely objection has been filed.
- (3) Disposition of Application. After the filing of a Certification of Notice under subdivision (e)(3),

- (i) if the applicant certifies no timely objection has been filed, the court shall rule on the motion, or
 - (ii) if the applicant certifies a timely objection has been filed, the court may either rule on the motion or set a hearing date.
- (4) Notice of Hearing. If the court sets a hearing date for an application, the clerk shall give notice of the hearing to the applicant, the objector, and any other person the court directs.

(f) *Service of Application to Employ a Professional*. On the day an application to employ a professional is filed, the applicant shall serve a copy of the application on those specified in L.B.R. 2014-1(b).

SOURCE

This rule is derived from 97 L.B.R. 9013-3. Only requests for relief which are authorized to be made by application under the F.R.B.P. are subject to this rule. Under subdivision (b)(2) a cover sheet does not have to be filed with an application; however, the court may in the future order that a cover sheet be filed. The period within which to object to an application governed by L.B.R. 9013-1(e) has been changed from five to eight days because amended F.R.B.P. 9006(a) now provides that weekends and legal holidays are excluded from the computation of the time to act if the period to act is less than eight days.

Local Rule 9014-1

Motions

(a) *Motions for Withdrawal*. A motion for withdrawal of a case or proceeding is governed by L.B.R. 5011-1.

(b) *Motions Filed in an Adversary Proceeding*. A motion filed in adversary proceeding is governed by L.B.R.7005-1.

(c) *Motions Filed in Connection with an Appeal*. A motion filed in connection with an appeal is governed by L.B.R. 8001-1.

(d) *Other Motions Filed in a Case*. A motion filed in a case means a motion that is not subject to subdivisions (a)-(c) or this rule. A motion filed in a case is governed by either L.B.R. 9014-2, Motions Determined Without Hearing, or L.B.R. 9014-3, General Motion Practice.

SOURCE

This rule is new. All requests for relief, except where the F.R.B.P. provide for use of an application, are made by motion. F.R.B.P. 9013.

Subdivision (a). L.B.R. 5011-1 establishes a procedure for a movant who files a motion for withdrawal to also file a copy of the motion in the district court and thereby trigger a specific procedure for obtaining a resolution of the motion by the district court.

Subdivisions (b) and (c). Separate rules for motion practice in adversary proceedings and appeals are set forth respectively in L.B.R. 7005-1 and 8001-1 because there is no need to provide service or notice to anyone other than the parties in the adversary proceeding or to the appeal. The motion practice under these two rules is otherwise the same as the general motion practice under L.B.R. 9014-3.

Subdivision (d). The general motion practice under L.B.R. 9014-3 is derived from 97 L.B.R. 9014.1. An order directing any answer is no longer necessary. L.B.R. 9014-3(I) provides that an answer must be filed within 15 days. In addition, it is no longer necessary to provide a copy of a motion to those on the Clerk's Service List. Instead, those on the Clerk's Service List are provided with notice of the motion and may request a copy of the motion from the movant. The movant obtains a hearing date prior to filing the motion.

L.B.R. 9014-2, Motions Determined Without Hearing, provides that for certain motions no notice need be given and service need only be made on the trustee or debtor in possession and, in a chapter 11 case, the committee. No answer is required and a hearing is not scheduled. Rather, the court determines whether the motion will be granted or denied based on the motion. The court may, however, elect to require an answer or to set a hearing.

Local Rule 9014-2

Motions Determined Without Hearing

- (a) *Applicability.* This rule applies to a motion
- (1) under § 362(j) for entry of an order under § 362(c) confirming that the automatic stay has been terminated;
 - (2) under §§ 1225(c) or 1325(c) for entry of a wage order;
 - (3) under F.R.B.P. 1007(a)(4) or 1007(c) or (e) for an extension of time;
 - (4) under L.B.R. 1017-1(a) or 1017-2(a) to convert or dismiss a case;
 - (5) under F.R.B.P. 2002(h) or (I) to limit notice;
 - (6) under L.B.R. 2090-1(c)(2) to appear *pro hac vice*;

- (7) under F.R.B.P. 3003(c) to fix the time within which proofs of claim or interest may be filed;
- (8) under F.R.B.P. 4004(c) and L.B.R. 4004-1(a) to defer entry of a discharge order;
- (9) under L.B.R. 5070-1(f) for expedited consideration;
- (10) under F.R.B.P. 9006(b)(1) for enlargement of the time to act made before the time to act expired;
- (11) under F.R.B.P. 9006(c)(1) for reduction of the time to act;
- (12) under F.R.B.P. 9023, if the motion does not include a request for a hearing, to alter or amend an order awarding an applicant less than the requested amount of compensation and reimbursement of expenses; and
- (13) to limit service of papers or notice otherwise prescribed by these rules.

(b) *Form, Accompanying Order, and Cover Sheet.* A motion shall identify the movant, the nature of the relief sought, and the basis for the relief sought and be accompanied by (i) a proposed form of order which, if entered by the court would grant the relief requested; (ii) a certification of service as required under subdivision (c); and (iii) if the court imposes a general requirement that motions be accompanied by a cover sheet, a cover sheet substantially conforming to the form of cover sheet that accompanies the court's order.

(c) *Service.* On the day a motion is filed, a movant shall make service on the trustee and the debtor and, in a chapter 11 case, on the official committee and the United States trustee.

(d) *Disposition.* The court may rule on a motion without a hearing.

SOURCE

The rule is derived from 97 L.B.R. 9013-3(b), which governed *ex parte* applications.

This rule provides that for the motions listed in subdivision (b) no notice need be given and service need only be made on the trustee or debtor in possession, and in a chapter 11 case, the committee. No answer is required and a hearing is not scheduled. Rather, the court determines whether the motion will be granted or denied based on the motion. The court may, however, elect to require an answer or to set a hearing.

EXPLANATORY NOTE (2008)

The new subsections are L.B.R. 9014-2(a)(1) and 9014-2(a)(7). The other subsections have been renumbered appropriately.

Local Rule 9014-3

General Motion Practice

(a) *Applicability.* This rule applies to a motion in a case that is not governed by L.B.R. 9014-2, *Motions Determined Without Hearing*.

(b) *Form.* A motion shall identify the movant, the nature of the relief sought, and the basis for the relief sought. A motion shall state in bold type on the right-hand side adjacent to the caption the date, time and place set for the hearing scheduled under subdivision (c) of this rule.

(c) *Scheduling of Hearing.* Prior to filing a motion, the movant shall obtain a hearing date in the manner provided in L.B.R. 5070-1.

(d) *Filing.* The movant shall file a motion no later than 2 days after the day on which the hearing date is assigned.

(e) *Discovery.* Rule 7026 is applicable to contested matters but the following provisions of F.R.C.P. 26 do not apply to contested matters:

- (1) the disclosure requirements of Rule 26(a)(1)-(3);
- (2) the prohibition on discovery until the discovery conference under Rule 26(d); and
- (3) the requirements for a discovery conference and the submission of a discovery plan under Rule 26(f).

(f) *Papers to Accompany Motion.* The following papers shall accompany each motion:

- (1) a proposed form of order which, if entered by the court, would grant the relief sought by the motion. Each proposed form of order shall list, in the lower left-hand corner of the signature page or on the left-hand side of an attached page(s), the names and addresses of all interested persons to whom it is suggested that copies of the order, if entered, should be sent;
- (2) a certification of service and notice prepared as required by L.B.R. 9014-4; and
- (3) if the court imposes a general requirement that motions be accompanied by a cover sheet, a cover sheet that conforms substantially to the cover sheet that accompanies the court's order.

(g) *Service of Motion.*

- (1) General. On the day the motion is filed, the movant shall serve a Notice of Motion and Hearing Date substantially in the form of L.B.F. 9014-3, the proposed order, and

a copy of the motion (assembled in that order) on the following parties, or, if represented, their counsel of record:

- (i) the debtor and counsel to the debtor;
 - (ii) the United States trustee;
 - (iii) any trustee or interim trustee;
 - (iv) any official committee or, if no committee has been appointed in a chapter 11 case, the 20 largest unsecured creditors of the debtor;
 - (v) any person whose interest would be directly, materially and adversely affected if the relief requested in the motion were granted and whose interests are not adequately represented by persons on whom service is otherwise required.
- (2) Expedited Service. If a courtesy copy of the motion is delivered to chambers by expedited delivery, service under this subdivision shall also be made by expedited delivery.

(h) *Notice*.

(1) On the day the motion is filed, a movant shall give notice substantially in the form of L.B.F. 9014-3 of the filing of the motion, the relief sought, the hearing date, and, either (I) the time to file an answer within the time prescribed by subdivision (h), or (ii) the time to file an objection within the time prescribed by F.R.B.P. 3015(g) (to a motion to modify a confirmed chapter 12 or 13 plan); L.B.R. 3016-1(e) (to a motion for approval of a disclosure statement); F.R.B.P. 4001(d)(2) (to a motion for approval of an agreement); or L.B.R. 6004-1 (to a motion to sell free and clear of liens or other interests).

(2) The notice shall be given to those on the Clerk's Service List who are not required to be served under subdivision (f). A movant, at the movant's expense, shall promptly furnish a copy of the motion and proposed order to anyone on the Clerk's Service List who requests a copy of the particular motion. A movant may make service in the manner provided in subdivision (f) instead of giving notice under this subdivision.

(i) *Answer or Objection to Motion*. Unless the court grants a motion for expedited consideration or otherwise fixes a different time, an answer to a motion shall be filed and served on the movant, or if the movant is represented, counsel for the movant no later than 14 days after the date on which the movant serves the motion. An objection to a motion shall be filed and served in the manner and within the time provided under F.R.B.P. 3015(g), L.B.R. 3016-1(e), F.R.B.P. 4001(d)(2), or L.B.R. 6004-1.

(j) *Determination Without Hearing if No Answer or Objection Timely Filed*. If an answer or objection is required to be filed and no timely answer or objection is filed, the movant may file a certification of no opposition with the court and, unless a hearing is required under the F.R.B.P., may request that the court grant the relief requested in the motion without a

hearing. The courtroom deputy for the judge to whom the case is assigned may be contacted to ascertain whether the hearing has been canceled.

(k) *Stipulated Disposition of a Disputed Motion.* L.B.R.7041-2 applies if after an answer is filed or a hearing is convened and the movant and the parties who have opposed the motion agree to a stipulated disposition of the motion.

(l) *Supplemental Requirements of the F.R.B.P.* In addition to the service and notice required under subdivisions (f) and (g) of this rule, a movant also shall serve any party on whom service must be made under the F.R.B.P. and give notice to any party who must be given notice under the F.R.B.P. If the F.R.B.P. requires that the court conduct a hearing, a movant's certification of no timely filing of an answer or objection shall not include a request that the motion be determined without a hearing.

SOURCE

This rule, which is derived from 97 L.B.R. 9014.1, changes general motion practice in some important ways. An order directing an answer is no longer necessary. L.B.R. 9014-3(I) provides that an answer must be filed within 15 days. It is no longer necessary to provide a copy of a motion to those on the Clerk's Service List. Instead, those on the Clerk's Service List are provided with notice of the motion and may request a copy of the motion from the movant. The movant obtains a hearing date prior to filing the motion. A cover sheet does not have to be filed with the motion.

The F.R.B.P. have two rules which refer to motion practice. Rule 9013 requires that a request for relief be made by motion unless the F.R.B.P. authorize the filing of an application. A movant must file a motion, Rule 5005(a)(1), and must serve it "on the trustee or debtor in possession." Rule 9013.

L.B.R. 9014-3 spells out the mechanics of motion practice, including the following

- how to obtain a hearing date before filing a motion;
- what papers must be filed with a motion;
- who, in addition to the trustee or debtor in possession, must be served with the motion;
- who must be given notice of a motion and the hearing date;
- the time within which an answer must be filed; and
- the certification procedure to be followed if no answer is filed and the movant elects to request that the motion be determined without a hearing.

A motion filed in a case, other than a motion subject to L.B.R. 9014-2, is governed by L.B.R. 9014-3.

Motion practice under L.B.R. 9014-3 works in this way. A movant consults with court's courtroom deputy before the motion is filed and obtains a hearing date. The motion and the Notice of Motion and Hearing Date are served as a matter of course on the debtor, the trustee, the

United States trustee, any official committee, and any person who will be materially and adversely affected if the motion is granted. Notice of the motion and the hearing date must be given to all persons on the Clerk's Service List who have not been served. If a timely answer is not filed, the movant may so certify and request that the motion be determined without a hearing.

For a small number of motions, compliance with L.B.R. 9014-3 does not fulfill the movant's obligation under the F.R.B.P. because the applicable rule of the F.R.B.P. requires either service or notice in addition to that required under L.B.R. 9014-3. Subdivision (l) is included in L.B.R. 9014-3 in order to call counsel's attention to the need to consult the applicable F.R.B.P.

Note: Subdivision (e) was added, effective December 11, 2000, in order to maintain, as much as possible, the current practice in contested matters in light of the amendments to F.R.Civ.P. 26, which became effective on December 1, 2000.

LOCAL BANKRUPTCY FORM 9014-3

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

In re: Chapter:
Debtor Bankruptcy No.

* * * * *

NOTICE OF MOTION, RESPONSE DEADLINE
AND HEARING DATE

(Name of movant) has filed (specify name of motion) with the court for (describe the relief sought in the motion).

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

1. If you do not want the court to grant the relief sought in the motion or if you want the court to consider your views on the motion, then on or before XX/XX/XX you or your attorney must do all of the following:

- (a) file an answer explaining your position at (address of bankruptcy clerk's office)

If you mail your answer to the bankruptcy clerk's office for filing, you must mail it early enough so that it will be received on or before the date stated above; and

- (b) mail a copy to the movant's attorney:

[Attorney's name]
[Firm name]
[Address]
[Phone No.]
[Fax No.]

[If applicable, name and address of others to be served.]

2. If you or your attorney do not take the steps described in paragraphs 1(a) and 1(b) above and attend the hearing, the court may enter an order granting the relief requested in the motion.

3. A hearing on the motion is scheduled to be held before the Honorable (name of bankruptcy judge) on XX/XX/XX, at _____ in Courtroom _____, United States Bankruptcy Court, (address of Bankruptcy Court).

4. If a copy of the motion is not enclosed, a copy of the motion will be provided to you if you request a copy from the attorney named in paragraph 1(b).

5. You may contact the Bankruptcy Clerk's office(s) in Philadelphia at 215-408-2800 or Reading at 610 208-5040 to find out whether the hearing has been canceled because no one filed an answer.

Date:,

SOURCE

This form is derived from Official Form 20A.

L.B.R. 9004-2 provides in paragraph (v) that the caption of a motion shall contain “the full title of the ...motion which includes the name of the ... [movant] and describes the relief requested.” A title of a motion adequately describes the relief requested if it is plain from the title what the motion is about and what specific relief is sought. For example, if the motion is for relief from the automatic stay to permit foreclosure of a lien on real property, the title of the motion should state as follows: "Motion of Bank of Philadelphia for Relief from the Automatic Stay to Permit the Bank of Philadelphia to Foreclose on 333 Main Street, Philadelphia, PA."

The first paragraph of the L.B.F. 9014-3 also requires the movant to "describe the relief sought in the motion." If the movant has properly titled the motion as required by L.B.R. 9004-2, that description of the relief requested may be used in the L.B.F. 9014-3 Notice of Motion. If there is any doubt about whether the title of the caption is adequate, the movant should substitute in the Notice of Motion a description of the relief requested that does adequately describe the relief requested.

This form may have to be adapted in some situations.

1. If an objection to the motion is the proper response, “objection” should be substituted for “answer.” It should also be noted that the time for filing an objection may be established by a specific F.R.B.P. or a L.B.R. rather than the 15 day period of L.B.R. 9014-3(I). An objection to modification of a confirmed chapter 12 or 13 plan must be filed within 20 days, F.R.B.P. 3015(g), and an objection to a disclosure statement must be filed no later than five days before the hearing, L.B.R. 3016-1(e). On the other hand, objections to a motion to sell free and clear, L.B.R. 6004-1, and for approval of an agreement under F.R.B.P. 4004(d)(2) must be filed within 15 days.

2. Under L.B.R.9014-3(h), notice of a motion must be given only to those on the Clerk's Service List, but the movant must provide a copy to anyone on the Clerk's Service List who requests a copy. Paragraph 4 is appropriate when the notice is provided only to those on the Clerk's Service List. If notice is given to all creditors, paragraph 4 should be amended to read

If a copy of the motion is not enclosed, a copy of the motion will be provided to you if you are on the Clerk's Service List and you request a copy from the attorney named in paragraph 1(b).

Local Rule 9014-4

Certification of Service or Notice

- (a) *Service.* A certification of service of an application, motion, objection, or other paper filed with the court shall state the title of the paper served, the names of all persons on whom and the address where the paper has been served, the entities those persons represent, and when and how service has been made.
- (b) *Notice.* A certification of notice shall include (1) the text of the notice that was given or be accompanied by a copy of the notice that was given; and (2) contain the names of all persons on whom and the address where the notice has been given, the entities those persons represent, and when and how notice has been given.
- (c) *Combined Certification.* A certification of service and a certification of notice may be combined.

SOURCE

This rule is a revised version of 97 L.B.R. 9013.1. Subdivision (b) explicitly covers the form of certification of notice.

Local Rule 9015-1

Jury Trial

A statement of consent to have a jury trial conducted by a bankruptcy judge specially designated to conduct a jury trial under 28 U.S.C. § 157(e) shall be filed and served (1) by a party demanding a jury trial within the time permitted under F.R.Civ.P. 38(b) to demand a jury trial, and (2) by all other parties within 14 days of the timely filing of a statement of consent by the party demanding a jury trial.

SOURCE

On December 1, 1997, a new F.R.B.P. 9015 became effective. New F.R.B.P. 9015 (b) leaves to local rule making the determination of when a consent to a jury trial before a bankruptcy judge specially designated to conduct a jury trial under 28 U.S.C. 157(e) must be filed.

F.R.B.P. 9015(a) makes F.R.Civ.P. 38 applicable to bankruptcy cases and proceedings. Under Rule 38(b), a demand for a jury trial must be filed and served "not later than 10 days after the service of a last pleading directed" to the issue or issues for which a jury trial is demanded. Under L.B.R. 9015-1, the party demanding a jury trial must also file and serve a statement of consent to a jury trial before the bankruptcy judge within the 10 day period of Rule 38(b). If a statement of consent is timely filed by the party demanding a jury trial, the other parties have 10 days from the filing of that consent to file their own consents. If the consents of all of the other parties are filed within the 10 day period, the bankruptcy court may conduct the jury trial.

Local Rule 9019-1

Settlements and Agreed Orders

In any matter in which a proponent of a settlement or stipulation in a case or adversary proceeding seeks court approval without notice to those specified in F.R.B.P. 9019 and 2002, the proponent shall state with particularity the reasons why such notice is not necessary.

SOURCE

97 L.B.R. 9019.1.

Local Rule 9019-2

Arbitration

Any adversary proceeding classified by the plaintiff's counsel as an action to recover money damages not in excess of \$150,000 shall be subject to compulsory arbitration before a panel of arbitrators. The procedure for arbitration shall be that set forth in Rule 53.2 of the Local Rules of Civil Procedure of the United States District Court for the Eastern District of Pennsylvania, the procedures of which Rule are hereby adopted as part of these Rules. The trial *de novo* under that Rule shall be to the bankruptcy court.

SOURCE

Amended pursuant to the February 28, 2000, Order of the U.S. District Court for the Eastern District of Pennsylvania and effective March 1, 2000.

Local Rule 9019-3

Mediation

(a) *Certification of Mediators.* The Chief Judge shall certify as many mediators as the Chief Judge determines are necessary.

(b) *Application.* An application for certification as a mediator may be obtained from the clerk. A properly completed application may be submitted to the clerk.

(c) *Selection Criteria.*

(1) Attorney Applicants. An attorney admitted to the bar of this court under L.B.R. 2090-1 may be certified as a mediator if the attorney (i) has served as a mediator on a regular basis or participated in or is willing to participate in formal mediation training and (ii) has been involved actively for at least 3 years

(A) as counsel of record in bankruptcy cases either for the debtor, debtor in possession, trustee, or creditors' committee, or for a party to adversary proceedings or contested matters; or

(B) as an academic or practicing attorney in matters that involve legal or factual issues or business transactions that are the subject of litigation before this court.

(2) Non-Attorney Applicants. A person who is not an attorney may be certified as a mediator if the person (i) has served as a mediator on a regular basis or participated in or is willing to participate in formal mediation training and (ii) has been involved actively for at least three (3) years

(A) as a professional in bankruptcy cases; or

(B) as a participant or a professional in matters that involve legal or factual issues or business transactions that are the subject of litigation before this court.

(d) *Register of Certified Mediators: Retention of Appointment Orders.* The clerk shall maintain a Register of Certified Mediators and provide a copy of the Register on request. Orders appointing mediators shall be retained by the clerk and the clerk shall maintain a record of each mediator's appointments.

(e) *Orders Appointing a Mediator.* Any matter arising in a case, other than an adversary proceeding subject to compulsory arbitration under L.B.R. 9019-2, may be assigned for mediation. The court, on its own motion, or on the request of a party may assign a matter for mediation. If the court determines a matter will be assigned for mediation, the court, after consultation with the parties, shall appoint a mediator from the Register of Certified Mediators. The clerk shall mail promptly a copy of the order to the mediator.

(f) *Compensation.* A mediator who accepts an appointment volunteers the time expended to prepare for the mediation and to conduct a mediation conference or conferences lasting up to four (4) hours. After completion of four (4) hours in a mediation conference or conferences, the mediator may either (i) continue to volunteer the mediator's time or (ii) give the parties the option to agree to pay the mediator \$150 per hour for additional time spent on the mediation. The parties shall each pay a pro rata share of the mediator's compensation, unless they agree to some other allocation of the obligation to pay the fee. A motion to enforce a party's obligation under this subdivision to compensate a mediator is governed by L.B.R. 9014-3.

(g) *Disqualification to Serve as Mediator.* Mediators shall be disqualified for bias or prejudice as provided in 28 U.S.C. § 144 and shall disqualify themselves from proceeding with any appointment when they would be required to disqualify themselves under 28 U.S.C. § 455 if they were a justice, judge, or magistrate judge. Within 7 days of receiving an order of appointment the mediator shall notify the clerk that the appointment is accepted and there is no ground for disqualification or that mediator is disqualified.

(h) *Confidentiality: Service of Mediator's Law Firm.* A mediator shall treat all information obtained during the mediation process as confidential. A mediator's law firm is not automatically disqualified from employment as a professional in a case or from representing a party in the case solely because of the mediator's prior service in a case. If the mediator's law firm is employed as a professional in a case or undertakes representation of a party in the case and disclosure of information obtained by the mediator in the mediation would be harmful, an appropriate screening mechanism shall be established by the mediator's law firm to insure the mediator has no connection with the law firm's discharge of its responsibilities in the case.

(i) *Parties to the Mediation.* On the request of the mediator or on the court's own motion, the court may direct that additional parties participate in the mediation or be invited to participate in the mediation.

(j) *Scheduling Mediation Conference.*

(1) Authority of Mediator. The mediator shall select the date, time, and, subject to subdivision (j)(2), the location of the initial mediation conference and all other mediation activities.

(2) Location. Promptly after the entry of an order appointing a mediator, the clerk shall advise the mediator of the dates and times mediation facilities are available at the courthouse. The initial mediation conference and any additional conferences shall be held in the courthouse unless the mediator determines that it is in the interest of the mediator and the parties to hold the conference at another location designated by the mediator.

(3) Date. The date of the initial mediation conference shall be no later than 30 days after the mediator is notified of the appointment.

(4) Notice. The clerk shall give notice to the parties of the name of the mediator and the date, time, and location of the initial mediation conference at least 14 days before the date of the initial mediation conference.

(5) Continuance. The mediator may continue the initial conference to a date that is no later than 60 days after the mediator is notified of the appointment if the parties consent and the mediator finds that exceptional circumstances prevent holding the initial conference on the original date or fairness to the parties justifies a continuance. If the initial conference is continued to a later date, the mediator shall notify the judge who entered the appointment order.

(6) Additional Conferences. The mediator, with the consent of the parties, may schedule additional mediation conferences.

(k) *Mediation Procedure*

(1) No Automatic Continuance of Matters Assigned to Mediation. A trial or hearing will not be continued to accommodate a mediation unless the parties consent to the continuance and the court so directs.

(2) Mediation Memorandum. Not later than 3 days before the initial mediation conference, each party shall deliver or telecopy to the mediator and to each other party a mediation conference memorandum no longer than 2 pages, summarizing the nature of the matter and the party's positions on (1) the major factual and legal issues affecting liability, (2) the relief sought by each party and (3) settlement. Mediation memoranda are solely for use in the mediation process and shall not be filed.

(3) Attendance of Counsel at Mediation Conference. An attorney who is responsible for the representation of a party shall attend the initial mediation conference and any additional mediation conferences. Local counsel for an attorney attending a conference does not have to appear. Each attorney shall be prepared to discuss in good faith the following:

- (i) all liability issues;
- (ii) all damage issues; and
- (iii) the client's position on settlement.

(4) Attendance of Parties at Mediation Conference. If an individual or any other entity that is a party to a mediation resides within or has its principal place of business located within the Eastern District of Pennsylvania, the individual shall attend the mediation conference in person and any other entity shall have a person with decision making authority for it attend the mediation conference. All other individuals or entities that are parties to the mediation must be available by telephone and the person available by telephone must have decision making authority. The mediator for cause may excuse attendance completely or authorize participation by telephone.

(5) Sanctions. Willful failure of an attorney or a party to comply with subdivisions (k)(3) or (k)(4) shall be reported to the judge who entered the appointment order and may result in imposition of appropriate sanctions.

(6) No Recording of Mediation Conference. A mediation conference shall not be recorded by any means.

(7) Conclusion of Mediation. The mediator shall file a Mediation Report on the form provided by the clerk within 14 days of the conclusion of the mediation. If the mediation results in an agreement for the resolution of the matter, the parties shall determine which of them will prepare the stipulation of settlement, have the stipulation of settlement executed, and file the requisite motion for court approval. A motion for court approval shall be filed no later than 28 days after the conclusion of the mediation.

(8) Confidentiality of Mediation: No Use at Trial or Otherwise. A Mediation Submission, a mediator's written settlement recommendation memorandum or any oral suggestions relating to settlement, and any statement of a party, an attorney, the mediator, or other participant is confidential and privileged and shall not be disclosed to third parties. F.R.E. 408 applies to mediation under this rule and no statement made during the mediation process or writing used during the mediation process shall be offered or admissible as evidence in any trial or hearing, made known to the court or jury, or construed for any purpose as an admission. Papers relating to the mediation, except the Mediation Report, shall not be filed or delivered to a judge of the court. This subdivision does not apply to the reporting of or processing of complaints about unlawful or unethical conduct during the mediation process.

SOURCE

This rule is derived from the Standing Order of the Bankruptcy Court dated May 2, 1994 (S.O.) and Local Rule of Civil Procedure 53.2.1.

Subdivision (a) is derived from S.O. ¶ 1.1.

Subdivision (b) is derived from L.R.Civ.P. 53.2.1(1)(c).

Subdivision (c)(1) is a revision of S.O. ¶¶ 1.2(b), 1.3, and 1.4. Subdivision (c)(2), which authorizes the certification of individuals who are not attorneys as mediators, is new.

Subdivision (d) is a revision of S.O. ¶¶ 1.1, 2.2, and 3.5.

Subdivision (e) is derived from S.O. ¶¶ 3.1 and 3.2.

Subdivision (f) is new.

Subdivision (g) is derived from L.R.Civ.P. 53.2.1(4)(e).

Subdivision (h) is derived from S.O. ¶ 3.6.

Subdivision (I) is derived from S.O. ¶ 3.1.

Subdivision (j) is derived from S.O. ¶¶ 4.2 and 4.9. Subdivision(j)(2) is new. Mediation conferences are to be held in the courthouse unless the mediator determines that there is a significant reason why everyone would be better served by holding the conference at a different location.

Subdivision (k). The sources of the respective parts of this subdivision are as follows:

<u>Part</u>	<u>S.O</u>
(1) No Automatic Continuance	¶ 3.1
(2) Mediation Memorandum	L.R.Civ.P. 53.2.1(5)(a)
(3) Attendance of Counsel	¶ 4.4
(4) Attendance of Parties	¶ 4.5
(5) Sanctions	¶ 4.6
(6) No Recording	¶ 4.7
(7) Conclusion of Mediation	¶ 5.1
(8) Confidentiality	¶¶ 4.3, 4.7, and 4.8

Local Rule 9076-1

Telephone and Video Conferences and Hearings

(a) Availability. The court, on its own motion or on the request of a party, may direct that a conference on any matter or the argument or a hearing on any motion, application, or objection be by telephone or video conference without court appearance.

(b) Scheduling and Procedures

(1) Contact With the Courtroom Deputy. A party requesting a telephone or video conference or hearing shall first seek the agreement of opposing counsel and then contact the courtroom deputy for the judge to whom the case is assigned to request court permission. The requesting party shall discuss with the courtroom deputy the existence of any other procedural or technical requirements for the proceedings. Technical arrangements to use the court's video conference system shall, when practicable, be made 7 days in advance of the scheduled proceeding date in consultation with the judge's courtroom deputy.

(2) Telephone Conference or Hearing. The party requesting a telephone conference or hearing shall initiate the call unless otherwise directed by the court. If multiple parties will be participating, the requesting party shall arrange to join the other parties on the line. The person participating in the proceeding by telephone must be available by the telephone before the time set and must take any steps necessary to keep the telephone lines open so that the call can be timely placed.

(3) Record. A verbatim record of a telephone or video hearing shall be made in all cases. A verbatim record of a telephone or video conference shall be made if directed by the court.

SOURCE

This rule is new.

EXPLANATORY NOTE (2006)

The rule has been amended to provide more detailed procedures for the use of the improved technology that permits interested parties to participate in court hearings from remote locations. The District Court Order of December 13, 2006 designated the amended rule as an interim amended rule subject to reevaluation, with any further proposed amendments to be subject to the requirements of notice and publication.