

Part IIIA - Local Rules of Bankruptcy Practice

LR 1001. TITLE AND SCOPE OF RULES.

(a) Title. These are the Local Rules of Bankruptcy Practice of the United States District Court for the District of Nevada. This part governs cases and proceedings before the United States Bankruptcy Court of this district. These rules may be cited as LR ____.

(b) Applicability of local bankruptcy and district court rules.

(1) All cases and proceedings within the bankruptcy jurisdiction of the courts are referred to the bankruptcy judges.

(2) The Federal Rules of Bankruptcy Procedure and these local rules govern procedure in all bankruptcy cases and proceedings in the District of Nevada. Except for those matters contained in Part IA of the Local Rules of Practice for the United States District Court for the District of Nevada, no other local rules apply unless they are specifically adopted by reference in these bankruptcy local rules.

(3) Except as provided in LR 8001, *et seq.*, these rules do not apply to bankruptcy proceedings in the district court.

(4) These rules supplement or, as permitted, modify the Federal Rules of Bankruptcy Procedure and must be construed to be consistent with the Federal Rules of Bankruptcy Procedure and to promote the just, efficient and economic determination of every action and proceeding.

(5) These rules are effective starting May 1, 2006, and govern all actions and proceedings pending or begun on or after that date.

(c) General and special orders, guidelines, and policy statements.

(1) These rules may be amended by administrative order of the court. There may be other matters relating to internal court administration that, in the discretion of the court en banc, may be accomplished by general orders.

(A) The clerk will maintain copies of orders, guidelines, and policy statements that relate to practice before this court and will make copies available

(i) on request and the payment of a nominal charge; and

(ii) at the court's website, www.nvb.uscourts.gov.

(2) Once adopted, these rules supersede all existing administrative orders. All future administrative orders will be designated consecutively according to the year of their adoption, e.g., 2005-1, 2005-2, 2005-3, etc.

(d) Procedures outside the rules. These rules are not intended to limit the discretion of the court. The court may, on a showing of good cause, waive any of these rules, or make additional orders as it may deem appropriate and in the interests of justice.

(e) Sanctions for noncompliance with rules. Failure of counsel or of a party to comply with these rules, with the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure, or any court order may be grounds for imposing sanctions, including, without limitation, monetary sanctions.

(f) United States trustee guidelines. The United States trustee may, from time to time, issue guidelines regarding all matters in or relating to cases under title 11 of the United States Code. The guidelines reflect the position of the United States trustee on the matters they address as well as actions that the United States trustee may take in accordance with those positions. Copies of the guidelines will be available from the United States trustee upon request or through the court's website.

(g) Links to other websites. Bankruptcy trustees and governmental entities, appointees, or agents, including but not limited to the United States attorney, the United States trustee, and the Internal Revenue Service, may submit proposed links for inclusion in the court's website to the court clerk.

(h) Meaning of terms. Unless otherwise specifically stated, throughout these rules, the word "debtor" means the debtor, the debtor's attorney, or anyone else who speaks for or represents the debtor. Similarly, the word "trustee" means the trustee, the trustee's attorney, or anyone else who speaks for or represents the trustee. The same understanding applies to all other parties.

LR 1002. PETITION - GENERAL.

(a) Number of copies.

(1) For documents that are not electronically filed by parties under the provisions of LR 5005, the clerk will maintain a list of requirements that specify the minimum number of copies that must be submitted. The clerk may from time to time revise the list of copy requirements. When the requirements are revised, the clerk will reissue them with a notation of the effective date of the revision. The clerk will make copies of the list available on request, and will post them on the court's website.

(2) Notwithstanding this rule, if the clerk asks a filer for a copy of a document or for additional copies, the filer must comply.

(b) Additional documents. When a voluntary petition is filed by a corporation, there must be attached to it a true copy of the resolution of the corporation's board of directors authorizing the filing.

(c) Duty to notice other courts of the filing of bankruptcy petition. Within fifteen (15) days after filing a bankruptcy petition, the debtor must serve notice of the bankruptcy case on the clerk of any court where any claim or cause of action is pending against, or on behalf of, the debtor. The

debtor must file evidence of service of the notice with the bankruptcy court within five (5) days after service is completed.

LR 1003. JOINDER OF PETITIONERS IN INVOLUNTARY CASE.

If a debtor files an answer averring the existence of twelve (12) or more creditors, the creditor(s) filing the involuntary petition must serve a copy of the petition, the answer, and a notice to all creditors. The notice must state that the creditor may join in the petition before the hearing date.

LR 1004. PETITION - PARTNERSHIP.

When a partnership files a voluntary petition, evidence of the consent of all general partners must be attached to the petition unless a written partnership agreement permits other than unanimous consent. If that is the case, a declaration to that effect must be attached to the petition.

LR 1005. PETITION - CAPTION.

The first and/or second pages of every petition presented for filing must include the following: (1) the name of all attorneys appearing for the petitioner, their Nevada or other state bar number, address, telephone number, fax number, and email address; or, for a party appearing *pro se*, the party's name, address, and telephone number; and (2) in all cases, the chapter of the Bankruptcy Code under which the case is filed.

LR 1006. PAYMENT OF FILING FEE IN INSTALLMENTS; DENIAL OF *IN FORMA PAUPERIS* PETITIONS.

(a) Applications for permission to pay filing fees in installments by individuals must provide that an initial payment will be made within forty-eight (48) hours of filing the petition, a second payment will be made within thirty (30) days after filing the petition, and the balance of the filing fee will be paid within sixty (60) days after filing the petition. The clerk will maintain a list of required installment payment amounts and may from time to time revise the list. When revised, the list will be reissued with a notation of the effective date of the revision. Copies of the list are available from the clerk and are posted on the court's website. If a request is made to make payments differently, it must be supported by an affidavit describing special circumstances.

(b) If a petition for *in forma pauperis* filing is denied, the debtor will be deemed to have applied for installment payments under subsection (a) above as of the date of denial.

LR 1007. LISTS, SCHEDULES, AND STATEMENTS; MAILING LIST.

(a) Number of copies. See LR 1002(a).

(b) Master mailing list.

(1) The debtor must prepare and file a master mailing list in a format approved by the clerk.

(2) The master mailing list must include the following information:

(A) The names and addresses of creditors, either alphabetically or alphabetically by category, including those parties to pending lawsuits indicated on the debtor's Statement of Financial Affairs, and those additional parties and governmental entities specified in LR 2002;

(B) Zip codes for all postal addresses;

(C) The names and addresses of all general partners or corporate officers for any debtor that is a partnership or corporation.

(3) The clerk will maintain requirements for a master mailing list that specify the format of a list to be submitted for filing. This may include the requirement that the list be submitted electronically. The clerk may from time to time revise the requirements. When revised, the clerk will reissue the requirements with a notation of the effective date of the revision. Copies of the requirements for the format of a master mailing list will be available from the clerk and will be posted on the court's website.

(4) If the debtor fails to timely prepare and file a master mailing list in a format that conforms to the clerk's requirements for a master mailing list, the attorney for the debtor or the debtor in proper person will be required to mail the Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, & Deadlines and the Discharge of Debtor to all creditors and parties in interest pursuant to LR 2002(a) and LR 4004.

(5) Amendment.

(A) If any amended schedule of creditors is filed, a supplement to the master list must be submitted. The supplement must not repeat those creditors on the prior master list, and must list only the following information:

(i) The complete names and addresses of additional creditors and corrections to the master list, together with the bankruptcy case number, and the date on which the creditor was added to the master list; and

(ii) The complete names and address of any party requesting special notice together with the bankruptcy case number, and the date on which the creditor was added to the master list.

(B) Besides the notice of the amendment required by Fed. R. Bankr. P. 1009(a), upon filing an amendment, the debtor must send a copy of the Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, & Deadlines issued in the bankruptcy case to the added creditors, and must file evidence of sending the notice within the time limit set in LR 2002.

(6) The debtor is responsible for the accuracy and completeness of the master list and any supplement. The clerk will not compare the names and addresses of the creditors listed in the schedules with the names and addresses shown on the master list or supplement.

(7) Before sending a notice to creditors and parties in interest, the sender must compare the names and addresses listed on the master mailing list to the names and addresses shown on the schedules, amendments to schedules, requests for special notice, any related adversary files, and any proofs of claim filed by creditors.

(c) Special notice list. The debtor may prepare and file a special notice list including the names and addresses of those entities listed in LR 2002(a)(6), all secured creditors or their counsel, the twenty (20) largest unsecured creditors or their counsel, all professionals employed in the case, and any entities who have filed a request for notice.

(d) Extension of Time. Any motion to extend the time to file lists, schedules, and statements must be filed within the fifteen (15) day period provided by Fed. R. Bankr. P. 1007. The motion will be set on a hearing date of not less than ten (10) days' notice.

LR 1013. HEARING AND DISPOSITION OF PETITION IN INVOLUNTARY CASES.

(a) Setting trial of involuntary cases. Unless the clerk sets a status hearing when an involuntary petition is filed, the petitioning creditor must obtain a hearing date from the clerk for the trial of a contested petition and must immediately notify the debtor of the hearing date along with any creditors identified in the debtor's answer.

(b) Effect of default. If an answer or responsive pleading is not filed as required by Fed. R. Bankr. P. 1011, the petitioning creditor must within five (5) days after the default, submit an order for relief to the court or a notice of voluntary dismissal. If the petitioning creditor fails to file an order or notice, the court may dismiss the case without prejudice.

LR 1015. RELATED CASES.

(a) Notice of related cases. Counsel or a debtor who is aware that a case on file, or about to be filed, is related to another case that is pending or that was pending within the preceding six (6) months must file a Notice of Related Cases, setting forth the title, number and filing date of each related case, together with a brief statement of the relationship.

(b) Cases deemed related. Cases deemed to be related within the meaning of this rule include the following:

- (1) The debtors are the same entity;
- (2) The debtors are husband and wife;
- (3) The debtors are partners;

(4) The debtor in one (1) case is a general partner or majority shareholder of the debtor in the other case;

(5) The debtors have the same partners or substantially the same shareholders; or

(6) The debtors are affiliated as that term is defined under 11 U.S.C. § 101(2).

(c) Reservation of judicial discretion to deem case as related. Without limiting the foregoing, the court may deem the case to be so related that it should be treated as related.

(d) Assignment to judges. Unless the court directs otherwise, related cases filed at the same time will be assigned to the same judge. Whenever the clerk is apprised of related cases, after consulting with the assigned judge and the proposed judge, the clerk will reassign the second case to the judge to whom the first case was assigned, unless the court orders otherwise.

(e) Nonlimitation of applicability. A judge may assign any case or adversary proceeding to another judge.

LR 1016. NOTIFICATION OF DEATH OR INCOMPETENCY.

If a debtor dies or is deemed incompetent, the debtor's executor, administrator, or guardian must file a statement of that fact with the court and must immediately serve the statement on the trustee if there is one, or on the United States trustee if no trustee has been appointed.

LR 1070. JURISDICTION.

(a) Any case, contested matter, or adversary proceeding that is referred either automatically or otherwise to a particular bankruptcy judge may be heard by any other bankruptcy judge or by a bankruptcy judge designated and assigned temporarily to this district.

(b) Judges assigned to either division of this court may hear cases in any official duty station in the district.

LR 1071. DIVISIONS - BANKRUPTCY COURT.

(a) The state of Nevada is one (1) judicial district and is divided into two (2) unofficial divisions as follows:

(1) Southern Division: Clark, Esmeralda, Lincoln, and Nye Counties.

(2) Northern Division: Carson City, Churchill, Douglas, Elko, Eureka, Humboldt, Lander, Lyon, Mineral, Pershing, Storey, Washoe, and White Pine Counties.

(b) Petitions must be filed in the division in which venue is based. If a petition is filed in the wrong division, the court may, on its own, transfer it to the appropriate division or retain the case.

LR 1073. ASSIGNMENT OF CASES.

See LR 1015(d) and LR 5075(a)(1)(A).

LR 2002. NOTICES TO CREDITORS AND OTHER INTERESTED PARTIES.

(a) Notices to parties in interest.

(1) Any person who files a pleading, written motion or other document that requires notice to another party is responsible for serving all parties who must be served. Unless the court directs otherwise, the clerk will not serve those notices.

(2) Under Fed. R. Bankr. P. 2002, the debtor in each bankruptcy case filed on or before January 1, 2002, and the debtor in each bankruptcy case, except in chapter 7 or 13 cases, filed on or after January 1, 2002, with more than two hundred (200) creditors and parties in interest listed, or the debtor who fails to file a complete master mailing list as required by LR 1007(b) is directed to give the trustee, all creditors, and other parties in interest at least twenty (20) days' notice by mail of the Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, & Deadlines entered by the court in each bankruptcy case.

(3) Notice to added creditors. If an amendment is filed adding creditors in accordance with Fed. R. Bankr. P. 1009(a), the debtor must send each added creditor a copy of the Notice of Chapter __ Bankruptcy Case, Meeting of Creditors, & Deadlines.

(4) Evidence of service made in accordance with LR 2002(a)(1) and evidence of service made in accordance with LR 2002(a)(2) and (a)(3) must be made by filing a certificate or affidavit of service within five (5) days of the service.

(5) If the court grants an extension of time to serve the notice required by LR 2002(a)(2), the original creditors' meeting must be vacated and a new date for the meeting must be set. Any motion or request to extend the time to serve the notice will be deemed to waive the deadlines that run from the vacated first date for the meeting of creditors and to stipulate that the deadlines run from the renoticed meeting date.

(6) Any document that is required to be served or noticed on all parties must also be served or noticed on the federal and state governmental units listed in the Register of Mailing Addresses of Federal and State Governmental Units kept by the clerk in accordance with Fed. R. Bankr. P. 5003(e) and LR 5003(d). Additional service requirements may be found in Fed. R. Bankr. P. 2002(j).

(b) Notice to creditors whose claims have been filed. After a claims bar date expires in a chapter 7 case, all notices required by Fed. R. Bankr. P. 2002(a) may be served only on the debtor, the trustee, all indenture trustees, creditors that hold claims for which proofs of claim have been filed with the clerk and to creditors, if any, that are permitted to file claims by reason of an extension granted under Fed. R. Bankr. P. 3002(c).

(c) Clerk's notice to United States trustee and trustees. The clerk may serve the United States trustee and all trustees by transmitting a copy of any document electronically using the court's

Electronic Case Filing system. Service must be made in accordance with the electronic filing procedures described in LR 5005.

(d) Clerk's notice to attorneys.

(1) The clerk may serve any attorney or any party represented by an attorney who is not a registered user of the court's Electronic Case Filing system by transmitting a copy of any document electronically in accordance with the procedures described in LR 5005.

(2) The clerk may serve any attorney or any party represented by an attorney who is not a registered user of the Electronic Case Filing system by placing a copy of document in a designated location in the clerk's office. The clerk will prescribe the conditions for pickup, which may be changed from time to time at the clerk's discretion. The clerk's deposit of a document in the designated location is deemed to be receipt of it and will be made only to the submitting attorney shown in the caption of the document. In accordance with LR 9022, the attorney must serve all other parties.

LR 2003. MEETINGS OF CREDITORS AND EQUITY SECURITY HOLDERS.

A motion to waive the appearance of the debtor must state that the United States trustee and the trustee in a chapter 7, 12 or 13 case have been contacted, and whether there is an objection to the waiver.

LR 2004. DEPOSITIONS AND EXAMINATIONS.

(a) Request for examination. All requests for orders under Fed. R. Bankr. P. 2004 must be made by motion and must be accompanied by a proposed order.

(b) Order for examination. The clerk may sign orders for examination if the date set for examination is more than ten (10) business days from the date the motion is filed. If examination is requested on less than ten (10) business days' notice, the motion must state whether the examination date has been agreed on, or if there is no agreement, why examination on less than ten (10) business days' notice is requested.

(c) Securing attendance of witness. Securing the attendance of a witness or the production of documents must be done in accordance with LR 9016 and Fed. R. Bankr. P. 9016.

LR 2010. TRUSTEES' BONDS.

(a) Blanket bond coverage. Trustees covered by the blanket bond applicable to the United States Trustee Region 17 and the District of Nevada must pro rate the cost of the annual bond premium for those asset estates held by the trustee at the time the bond premium is due and must pay the pro rata share from each estate.

(b) Increase in bond premium. If the amount of the bond required in an individual case results in an increase in the bond premium for that case, the trustee must pay the increased premium from the assets of that case.

(c) Payment of bond premiums. The trustee must pay all bond premiums on or before the due date.

(d) Maintenance of original bonds. The United States trustee must maintain all original bonds covering the trustees, and must provide a copy to the clerk.

LR 2014. ATTORNEYS OF RECORD.

(a) Appearances. An attorney who appears in a case on behalf of a party is the attorney of record for the party for any and all purposes except adversary proceedings until an order is entered permitting the withdrawal of the attorney or the case is closed or dismissed.

(1) An attorney approved as special counsel for the bankruptcy estate and/or the debtor under 11 U.S.C. § 327(e) (or any other applicable code section) is attorney of record for that special purpose only. The attorney is attorney of record for the special purpose until an order is entered permitting the withdrawal of the attorney or the case is closed or dismissed.

(2) Unless the court orders otherwise or further appearance is made in an adversary proceeding, an attorney who has appeared for a party only in the main bankruptcy case is not automatically the attorney of record for the party in the adversary proceeding.

(b) Withdrawals. See LR IA 10-6 of the Local Rules of Practice for the United States District Court for the District of Nevada.

LR 2015. REQUIRED PAYMENTS TO GOVERNMENT ENTITIES.

Without altering the priorities established under 11 U.S.C. § 507, or creating a superpriority, a trustee or debtor who operates a business must pay all taxes, fees, charges, or other required payments to governmental entities on a timely basis, except where otherwise ordered.

LR 2016. COMPENSATION OF PROFESSIONALS.

Local guidelines relating to applications for compensation and reimbursement of expenses may be published from time to time and will be posted on the court's website. The guidelines should be read in conjunction with applicable statutes, rules, and the United States trustee's Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses filed under 11 U.S.C. § 330.

LR 3001. CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL.

(a) Form and Content. Each proof of claim must state the chapter of the Bankruptcy Code under which the case is pending at the time the claim is filed.

(b) Transferred Claims.

(1) Each proof of claim for a transferred claim must state on the face of the claim form, immediately adjacent to the bankruptcy case number, that the claim has been “transferred other than for security” or that the claim has been “transferred for security,” whichever applies.

(2) Each claimant who files a proof of claim for a transferred claim must prepare and provide to the clerk, together with the proof of claim, the notice that is required to be sent by Fed. R. Bankr. P. 3001(e)(2), 3001(e)(3), or 3001(e)(4).

LR 3002. FILING PROOF OF CLAIM.

(a) Copies and Service. An original proof of claim must be filed along with copies as required by LR 9004(d). If a creditor has not filed its proof of claim electronically and wishes to receive a file-stamped copy of it, the creditor must submit an additional copy to be returned. A request for return by mail must include a self-addressed, stamped envelope. If the debtor is not represented by an attorney, the creditor must serve a copy of the proof of claim on the debtor.

(b) Claim arising from rejection of executory contract or unexpired lease. A proof of claim arising from the rejection of an executory contract or unexpired lease of the debtor under 11 U.S.C. § 365(d) must be filed not later than ninety (90) days after the first date set for the meeting of creditors held under 11 U.S.C. § 341(a), unless the court orders otherwise.

LR 3003. FILING PROOF OF CLAIM OR EQUITY INTEREST IN CHAPTER 11 REORGANIZATION CASE.

Unless the court orders otherwise, and as provided by 11 U.S.C. § 502(b)(9), a proof of claim in a chapter 11 case must be filed within ninety (90) days after the date first set for the meeting of creditors held under 11 U.S.C. § 341(a). The notice setting the date for the first meeting of creditors must also provide a bar date for filing claims.

LR 3004. NOTICE OF FILING PROOFS OF CLAIM BY DEBTOR OR TRUSTEE.

Unless the court orders otherwise, on filing a proof of a claim under Fed. R. Bankr. P. 3004, the debtor or trustee must serve notice of filing the claim on the creditor, the debtor, and the trustee. The notice must include a copy of the claim or a statement of the amount and classification of the claim and the date the claim was filed.

LR 3007. CLAIMS - OBJECTIONS.

(a) Form of objection. In an objection to claim, the following procedures apply:

(1) The objection must identify the holder of the claim, the amount of the claim, and the date the claim was filed;

(2) The objection must contain a statement of the grounds for the objection; and

(3) Unless grounds are stated for objecting to the entire claim, the objection must state the amount of the claim that is not in dispute.

(b) Responses to objection to claims. If an objection to a claim is opposed, a written response must be filed and served on the objecting party at least five (5) business days before the scheduled hearing. A response is deemed sufficient if it states that written documentation in support of the proof of claim has already been provided to the objecting party and that the documentation will be provided at any evidentiary hearing or trial on the matter.

(c) Hearing on objections. If a written response is not timely filed and served, the court may grant the objection without calling the matter and without receiving arguments or evidence. If a response is timely filed and served, the court may treat the initial hearing as a status and scheduling hearing.

(d) Bar date for filing objections to claims in chapter 11 cases. Unless otherwise extended by court order, all objections to claims in a chapter 11 case must be filed within sixty (60) days after entry of an order confirming the chapter 11 plan.

LR 3011. UNCLAIMED FUNDS.

(a) Procedure for requesting payment.

(1) Any entity seeking payment of unclaimed funds must file with the clerk a written application on forms prescribed by the clerk and available from the clerk and pay the prescribed fee. The applicant must disclose the following:

(A) The service(s) rendered by any asset recovery firm or fund locator;

(B) Any agreement of commission, fees, compensation or reimbursement of expenses; and

(C) The amount(s) requested.

(2) In no event may any commission, fee, compensation or reimbursement of expenses exceed fifty percent (50%) of the claim.

(b) Order. The clerk will not process a payment from the unclaimed funds account without receiving a written court order and the prescribed fee.

LR 3012. VALUATION OF SECURITY.

If a plan proposes to pay a secured creditor the fair market value of collateral in accordance with 11 U.S.C. § 1325(a)(5)(B)(ii), the debtor must file a motion to value the collateral under Fed. R. Bankr. P. 3012 to be heard on or before the hearing on confirmation of the chapter 13 plan. The motion must be served in accordance with the provisions of Fed. R. Bankr. P. 7004 and LR 7004.

LR 3015. CHAPTER 13 PLAN AND CONFIRMATION.

(a) Standard form of chapter 13 plans and orders confirming chapter 13 plans. With court approval, each chapter 13 standing trustee may issue a form chapter 13 plan and a form order for confirming a plan. Unless the court orders otherwise, the format prescribed by the trustee must be observed. The standing trustees may from time to time, upon approval of the court, revise the form plans and orders. The trustees will reissue any revised form plans and orders with a notation of the effective date of the revision.

(b) Chapter 13 plan guidelines. Each chapter 13 standing trustee may issue guidelines for the administration of chapter 13 plans. The guidelines will set forth positions that the trustee will generally follow in administering plans. The guidelines may also set procedures for scheduling confirmation hearings, filing objections to confirmation, and submitting orders confirming chapter 13 plans. The standing trustees may from time to time revise the guidelines. The trustees will reissue any revised guidelines with a notation of the effective date of the revision.

(c) Copies of forms and guidelines. Copies of the form plan, the form order confirming a chapter 13 plan, and guidelines will be available from each trustee. Each trustee will maintain a mailing list of all persons who have requested copies. If there are revisions, the standing trustee will serve a copy of the reissued plan and guidelines on each person on the list.

(d) Extension of time. A motion to extend the time to file a plan must be filed within the fifteen (15) day time period provided by Fed. R. Bankr. P. 3015(b), and will be set on a hearing date of not less than ten (10) days' notice.

(e) Direct payments to lessors and creditors. As authorized by 11 U.S.C. § 1326(a)(1), all payments that the debtor is obligated to make under Section 1326(a)(1)(B) or 1326(a)(1)(C) must be made to the lessor or creditor only if the debtor's plan so provides. In all other cases, the payments must be made to the chapter 13 trustee together with all payments made to the trustee under Section 1326(a)(1)(A). Chapter 13 trustees must separately account to each lessor or creditor for all payments received either (i) in the same way that they account for all other payments received under Section 1326(a); or (ii) as the court approves in accordance with separate agreements with each lessor or creditor.

LR 3016. CHAPTER 11 PLAN AND DISCLOSURE STATEMENTS.

(a) Filing and hearing. In a chapter 11 case, an original plan must be submitted along with copies as required by LR 1002(a) and LR 9004(d). If a chapter 11 plan has not been filed or approved within six (6) months after commencement of the case, the debtor in possession must file a report with the court explaining why a plan has not been filed or approved and setting forth a schedule for

filing and hearing the disclosure statement and plan confirmation. After that, the report must be updated quarterly.

(b) Expedited chapter 11 procedures. Notwithstanding a failure to make an election under Fed. R. Bankr. P. 1020, the court may, on its own motion or at the suggestion of or on *ex parte* motion by the plan proponent, the United States trustee, the trustee, or any party in interest, enter an order in any chapter 11 case implementing expedited confirmation procedures, including but not limited to:

- (1) Early deadlines for submitted plans and disclosure statements;
- (2) Conditional approval of disclosure statements without hearing; and
- (3) Combine a hearing on the conditionally approved disclosure statement and confirmation of plan in a single hearing.

(c) Procedure for requesting conditional approval of disclosure statement. The plan proponent may file an *ex parte* motion for conditional approval of the disclosure statement, with the hearing on the adequacy of the disclosure statement to be combined with the hearing on confirmation. The application must be accompanied by a certificate of counsel stating: (i) the circumstances that favor the preliminary approval of the disclosure statement; (ii) the total number of creditors, value of assets, and amount of claims as reflected in the debtor's schedules; and (iii) that the proposed disclosure statement contains the information required by LR 3016(d). The notice regarding hearing on a conditionally approved disclosure statement combined with confirmation of a plan must make clear that creditors and parties in interest may object to the conditionally approved disclosure statement as permitted by Fed. R. Bankr. P. 3017.1.

(d) Contents of disclosure statement. The disclosure statement should include, at a minimum:

- (1) A statement regarding the debtor's background, ownership, and prebankruptcy operating and financial history;
- (2) A discussion of the reason for the bankruptcy filing;
- (3) A summary of proceedings to date in the bankruptcy case;
- (4) A summary of assets;
- (5) A description of unclassified claims, including estimated amounts of administrative and priority claims;
- (6) A description of claims by class, including an estimate of the amount of claims in each class as reflected by the schedules and proofs of claim on file;
- (7) A summary of the treatment of unclassified and classified claims under the proposed plan;
- (8) A summary of the treatment of executory contracts under the proposed plan;
- (9) A liquidation analysis;

(10) A statement explaining how the proponent intends to make the proposed payments;
and

(11) The disclosures required by 11 U.S.C. § 1129(a)(5).

LR 3018. BALLOTS - VOTING ON CHAPTER 11 PLANS.

(a) Filing of ballot summary. The proponent of a chapter 11 plan must:

(1) File a Certification of Acceptance and Rejection of Chapter 11 Plan (ballot summary) no later than one (1) business day before the hearing on plan confirmation. The ballot summary must be signed by the plan proponent and must certify to the court the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan; and

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

(b) Amended ballot summary. In addition to the above requirements, the court may order an amended ballot summary to be filed, with the original ballots attached.

(c) Duty of plan proponent. The plan proponent must:

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

(2) If the original ballots are not filed with the court by the voting claimant(s), to maintain those original ballots for a period of not less than the time required for the retention of originally signed documents in the electronic filing procedures described in LR 5005 .

LR 3019. MODIFICATIONS TO CHAPTER 11 PLANS.

At the hearing on confirmation of a chapter 11 plan, the court may consider modifications to the plan, which may be incorporated in the order confirming the plan. Any notice of a confirmation hearing under Fed. R. Bankr. P. 2002(b) must include notice that modifications may be considered at the hearing.

LR 3021. CHAPTER 13 TRUSTEE'S NOTICE OF PROPOSED DISTRIBUTION.

After the claims bar dates have passed and all claims have been reviewed by the chapter 13 standing trustee, the trustee may file and serve a Notice of Chapter 13 Trustee's Proposed Distribution. The notice will list all claims as reflected on the court's claims docket and describe how each claim will be treated. The notice will be served on all creditors listed in the case, whether or not the creditor has filed a claim. Creditors will be advised to review the notice to ensure that the proposed distribution is accurate and that their claim is properly listed. Should a claim be missing or inaccurate, the creditor will be required to file a written objection to the proposed distribution with the court within twenty (20) days of the date of the notice and serve it on the chapter 13 standing

trustee. If the creditor fails to timely file an objection, the creditor will be deemed to have accepted the trustee's proposed treatment of the claim. If a timely objection is filed, the trustee will take no further action until the objection is resolved by the court after hearing.

LR 3022. CHAPTER 11 FINAL DECREE.

Unless otherwise provided in the plan or by court order, or unless there are pending contested matters or adversary proceedings, a case is deemed fully administered one hundred eighty (180) days after plan confirmation, and the clerk may then enter a final decree without further notice.

LR 4001. MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY; USE OF CASH COLLATERAL OR OTHER RELIEF; EMERGENCY ORDERS.

(a) Motions for relief from automatic stay.

(1) Time.

(A) Unless the court orders otherwise, hearings on matters under 11 U.S.C. §§ 362(d) and 363(e) may not be held on less than twenty (20) days' notice. Notice of a motion for relief from automatic stay must be served on any lien holder as identified in the debtor's schedules.

(B) The party seeking relief from the automatic stay must set a hearing within thirty (30) days of filing the motion. Failure to do so will be deemed a waiver of 11 U.S.C. § 362(e). Unless the court orders otherwise, any stipulation to continue the motion or any continuance sought by the moving party will constitute a waiver of the provisions of 11 U.S.C. § 362(e). Any opposition must conform to LR 9014.

(2) Section 362 information sheet.

(A) A form of § 362 cover sheet is available from the clerk's office or on the court's website.

(B) All motions for relief from the automatic stay and any oppositions to it must have attached as Exhibit "A" a properly filled out § 362 information sheet, which must be signed by counsel and/or the moving or opposing party.

(C) Unless the court orders otherwise, a properly completed § 362 information sheet will satisfy the requirements for a statement of facts and legal memorandum in cases under chapters 7 and 13.

(3) Parties are directed to communicate in good faith regarding resolution of the motion before filing a motion for relief from stay (including, as appropriate, communication with any trustee appointed in the case); and the court may refuse to entertain a motion or opposition where parties do not comply with this rule. The court may award, deny, or adjust fees of counsel for noncompliance.

(4) When, in accordance with a court order, an *ex parte* order is submitted regarding relief from stay, the order must be accompanied by evidence (which may be in the form of a declaration or affidavit) establishing each of the following:

- (A) The identification of the prior order of the court authorizing the *ex parte* relief;
- (B) The facts and circumstances of default under the prior order;
- (C) The method of service of notice of default;
- (D) The time period for cure; and
- (E) The failure to cure within that time.

(b) Applications for use of cash collateral or postpetition financing.

(1) The court and its individual judges may provide guidelines for applications seeking to approve the use of cash collateral and/or postpetition financing. The guidelines will be posted on the court's website.

(2) Motions for using cash collateral or obtaining credit to be heard on less than twenty (20) days' notice must be accompanied by separately filed affidavits or declarations setting forth the nature and extent of the immediate and irreparable harm that will result if the request is not granted, and must conform with the requirements to obtain an order shortening time under LR 9006.

(c) Emergency administrative orders.

(1) This subsection applies to applications for emergency administrative orders, which are generally requested by a motion filed on an expedited basis after the commencement of a case.

(2) The court may issue guidelines for emergency administrative orders, which will be available from the clerk's office or the court website.

(3) Notice must be served in a way designed to provide the maximum notice reasonably possible, and except in exigent circumstances, in no case less than two (2) hours before the hearing. Service may be by personal delivery, email, facsimile, or any other method reasonably calculated to give actual notice. Notice must, at a minimum, be served on the parties required to be served under LR 4001, as well as on the office of the United States trustee. All moving papers must be served as soon as possible on any party requesting a copy, in addition to service as required by Fed. R. Bankr. P. 2002 and 4001.

(4) Each motion must be filed, and courtesy copies must be provided to chambers, except in exigent circumstances, at least two (2) hours before the hearing.

(5) One (1) or more affidavits or declarations must be filed that provide an evidentiary basis for the relief requested and that explain why emergency or expedited relief is needed. One (1) omnibus affidavit or declaration may be used.

(6) Except as otherwise set forth above, LR 9014 applies to motions contemplated by this subsection.

LR 4002. DUTIES OF CHAPTER 13 DEBTORS BEFORE COMPLETING THEIR PLAN.

(a) Transfers of property and new debt. Debtors are prohibited from transferring, selling, or otherwise disposing of any nonexempt personal property with a value of \$1,000 or more or nonexempt real property with a value of \$5,000 or more other than in the regular course of their financial or business affairs without court approval. Except as provided in 11 U.S.C. § 364 and § 1304, debtors may not incur aggregate new debt exceeding \$1,000 without court approval.

(b) Insurance. Debtors must maintain insurance as required by any law, contract, or security agreement.

(c) Support payments. Debtors must maintain direct ongoing child or spousal support payments.

(d) Compliance with applicable nonbankruptcy law. While operating under chapter 13, debtors must conduct their financial and business affairs in accordance with applicable nonbankruptcy law. This duty includes, but is not limited to, filing tax returns and paying taxes.

(e) Wage orders. If during the life of the plan a debtor becomes delinquent on making plan payments, then, on the request of the trustee, the debtor must provide a wage order directing his or her employer to make the payments to the chapter 13 trustee. If the debtor fails to voluntarily give the trustee a wage order within thirty (30) days of the request, the trustee may in his or her discretion, lodge with the court on an *ex parte* basis a proposed wage order along with a declaration regarding the debtor's default and the trustee's unsuccessful attempt to obtain a voluntary wage order from the debtor.

LR 4002.1 PAY STUBS.

As authorized by 11 U.S.C. § 521(a)(1)(B), the court hereby exempts any debtor who is an individual from the filing requirements of 11 U.S.C. § 521(a)(1)(B)(iv). However, the information and documents may still be required by the trustee, or requested by any creditor.

LR 4002.2 FRAUDULENT STATEMENTS.

In any case in which the court finds that there may be materially fraudulent statements in any schedule filed under 11 U.S.C. § 521, the court will promptly refer the matter for further action to the individual designated for the District of Nevada under 18 U.S.C. § 158(a).

LR 4003. EXEMPTIONS.

(a) Objection to exemptions. Objections to exemptions must specifically state the grounds for the objection.

(b) Hearing. The objecting party must set a hearing on not less than thirty (30) days' notice to the debtor, the debtor's attorney, and the trustee or the United States trustee in a chapter 11 case.

LR 4004. NOTICE OF DISCHARGE.

(a) Cases filed before January 2, 2002. Within ten (10) days after the Discharge of Debtor is entered, the debtor must serve a copy by mail on the trustee, all creditors, and other parties in interest. Evidence of the mailing must be made by filing a certificate or affidavit of service within five (5) days of mailing.

(b) Cases filed on or after January 2, 2002. If the debtor fails to timely prepare and file a master mailing list that conforms with the clerk's requirements contained in LR 1007(b), the debtor must mail a copy of the Discharge of Debtor within ten (10) days after the discharge is entered. Evidence of the mailing must be made by filing a certificate or affidavit of service within five (5) days of mailing.

LR 4007. DETERMINING THE DISCHARGEABILITY OF A DEBT.

(a) Form order setting deadline for filing a complaint under 11 U.S.C. § 523(a)(6) and Fed. R. Bankr. P. 4007(d). When the debtor submits a motion for a hardship discharge under 11 U.S.C. § 1328(b) and Fed. R. Bankr. P. 4007(d), the debtor must also submit a form order fixing a time for filing a complaint to determine the dischargeability of any debt in accordance with 11 U.S.C. § 523(a)(6).

(b) Notice of deadline for filing a complaint under 11 U.S.C. § 523(a)(6). The debtor must give the notice required by Fed. R. Bankr. P. 4007(d) within ten (10) days after the order is entered fixing a time for filing a complaint to determine the dischargeability of any debt under 11 U.S.C. § 523(a)(6). Evidence of the service must be made by filing a certificate or affidavit of service within five (5) days of service.

LR 4009. CREDITOR'S DESIGNATION FOR RECEIVING NOTICE.

(a) If a creditor has designated a person or organizational subdivision in accordance with 11 U.S.C. § 342(g), the creditor must file with the court a document that (i) identifies the person or subdivision so designated, and (ii) describes the procedures it is using to ensure that the designated person or subdivision receives all properly addressed notices.

(b) If a creditor is not an individual and does not file a document substantially complying with subsection (a) above, or does not maintain any formal procedures for receiving notices, then notice to the creditor will be deemed effective if it would satisfy the provisions of Nev. Rev. Stat. § 104.1201.27.

LR 5001. CLERK'S OFFICE LOCATION AND HOURS.

(a) Clerk's office. The clerk maintains offices in Las Vegas for the Southern Division and in Reno for the Northern Division of the court. The offices are open for business from 9 a.m. to 4 p.m., Monday through Friday, except legal holidays. The clerk may institute administrative procedures for filing pleadings and papers. If necessary, the clerk may, on request, transact business at other times. The current mailing addresses and locations of the office of the clerk are posted on the court's website. On the effective date of these rules, the mailing addresses and locations are:

(1) Southern Division:

Clerk, U.S. Bankruptcy Court
The Foley Federal Building and U.S. Courthouse
300 Las Vegas Blvd. South, Suite 4-242
Las Vegas, Nevada 89101

(2) Northern Division:

Clerk, U.S. Bankruptcy Court
The C. Clifton Young Federal Building and U.S. Courthouse
300 Booth Street, Room 1109
Reno, Nevada 89509

(b) After-hours filing drop box. If a filer who is not required to file electronically by LR 5005 uses any after-hours filing drop box provided by the clerk and wants the filed document to be docketed as of the date it was put in the box, the filer must place the drop box file stamp on the original document before putting it in the box. Only original documents bearing the drop box file stamp that the clerk picks up from the box on the same date or the next business date will be docketed as of the date they were deposited.

LR 5003. COURT RECORDS.

(a) Files and records.

(1) All files and records of the court will remain in the clerk's custody and will not be taken from the clerk's custody without the court's written permission and only after the person obtaining the file or record signs a receipt for it.

(2) In cases filed on or after January 2, 2002, electronic files consisting of the images of documents filed in cases and proceedings and documents filed electronically are designated as and constitute the official record of the court, together with the other records kept by the court. Documents filed electronically have the same status for all purposes as documents filed on paper. Filing a document electronically constitutes entry of that document on the docket kept by the clerk. The clerk is not required to establish or maintain paper files for cases or proceedings filed on or after January 2, 2002.

(b) Exhibits.

(1) The clerk will have custody of all exhibits marked for identification or admitted into evidence during any proceeding.

(2) The court may order original exhibits returned to the party who offered them if the originals are replaced with true copies.

(3) Unless the court orders otherwise, the clerk will retain custody of the exhibits until the judgment has become final and the time for filing a notice of appeal or motion for a new trial has passed, or until appeal proceedings have ended.

(4) After the time to take an appeal from any appealable order or judgment has expired, any party may, upon twenty (20) days' written notice to all parties, withdraw any exhibit originally produced by it unless another party or person files notice with the clerk of a claim to the exhibit. If a notice of claim is filed, the clerk will not deliver the exhibit except with the written consent of the party who produced it and the claimant, or until the court has determined who is entitled to it.

(5) After the time to appeal any appealable order or judgment has expired, the clerk may, on twenty (20) days' notice, destroy any exhibit not claimed by the parties. When the case is closed, if no timely request is made for returning the exhibits, the clerk may destroy or make other disposition of them.

(c) Register of mailing addresses of federal and state governmental units. Copies of the register of mailing addresses of federal and state government units required to be kept under Fed. R. Bankr. P. 5003(e) are available from the clerk and are posted on the court's website.

(d) Register of mailing addresses of entities who have filed "Notice of Address" under 11 U.S.C. § 342(f). Copies of the register of mailing addresses of entities who have filed "Notice of Address" under 11 U.S.C. § 342(f) are available from the clerk and are posted on the court's website.

LR 5004. DISQUALIFICATION; DISCLOSURE OF INTERESTED PARTIES OR AFFILIATES.

(a) Unless otherwise ordered, when counsel for a nongovernmental party enters an adversary proceeding, the counsel must file a certificate listing all persons, associations of persons, firms, partnerships, or corporations known to have an interest in the outcome of the case including the names of any parent, subsidiary, affiliate or insider of the named nonindividual parties, as follows:

- "Number and Caption of Case
- "Number and Caption of Adversary Proceeding
- "Certificate Required by LR 5004

"The undersigned, counsel of record for _____, certifies that the following have an interest in the outcome of this adversary proceeding:

(List the names of all such parties including the names of all parent, subsidiary, affiliate, and/or insider of the named nonindividual parties, and identify their interests.)

“These representations are made to enable judges of the court to evaluate possible recusal.

“Attorney of Record for _____.”

(b) If there are no known interested parties other than those participating in the adversary proceeding, a statement to that effect will satisfy this rule.

(c) There is a continuing obligation to update this information in accordance with this rule.

LR 5005. ELECTRONIC FILING, SERVICE, AND TRANSMITTAL OF PAPERS.

(a) Electronic filing is mandatory.

(1) Except as provided below, all filings made by regular filers must be made electronically. “Regular filers” means any entity, including any attorney (without regard to whether he or she is admitted generally to practice before the court) who:

(A) made more than two (2) filings with the clerk in any calendar year after 2002; or

(B) is employed by a law firm, or has an interest as a partner, shareholder, or member of a law firm, that made more than two (2) filings with the clerk in any calendar year after 2002; or

(C) is employed by a governmental unit (as that term is defined in 11 U.S.C. § 101) that made more than two (2) filings with the clerk in any calendar year after 2002.

(2) All regular filers must complete a CM/ECF registration form, complete training, and obtain a password in order to file electronically. Information concerning these requirements can be found on the court’s website.

(3) Filing documents submitted, signed, and verified by electronic means is authorized subject to administrative orders and procedures as issued by the court. Documents to be filed electronically must be filed in compliance with the electronic filing procedures, which are available on the court’s website and may be revised from time to time.

(4) The following classes of filings are exempt from the electronic filing requirement:

(A) A proof of claim filed by a creditor not represented by an attorney in the case in which the proof of claim is filed, if that creditor has filed no more than ten (10) proofs of claim with the clerk during the current calendar year;

(B) A proof of interest filed by any equity security holder not represented by an attorney in the case in which the proof of interest is filed, if that equity security holder has filed no more than 10 proofs of interest with the clerk during the current calendar year;

(C) A request for special notice, in accordance with Fed. R. Bankr. P. 2002(g), filed by a party not represented by an attorney in the case in which the request is filed if that party has filed no more than ten (10) such notices with the clerk during the current calendar year;

(D) A request to be admitted to the bar of this court for purposes of practicing in a particular case filed under LR IA 10-2 of the Local Rules of Practice for the United States District Court for the District of Nevada;

(E) A discovery plan submitted in any adversary proceeding in accordance with LR 7026(c);

(F) Any motion or application requesting a hearing on shortened time. But if the motion is granted, any filings related to it must conform to these rules;

(G) Any filing made by an attorney in the course of representing an individual without charge as part of a recognized pro bono or other public interest program designed to assist unrepresented individuals, so long as that attorney, but for similar filings, would be a regular filer; and

(H) Any filing made by an individual debtor who appears without counsel (also known as a *pro se* litigant).

(5) If exceptional or emergency circumstances prevent a person from filing electronically, the person may ask the clerk to accept the filing under the Exceptional Circumstances Rule as set forth below.

(A) If an attorney or individual asks the clerk to accept a filing on paper because of exceptional or emergency circumstances, the clerk will accept the filing, digitize and index it, and transmit a copy of the filing to the appropriate bankruptcy judge.

(B) Unless the court directs otherwise, a person filing on paper under exceptional or emergency circumstances must, either concurrently with the filing or within two (2) business days after making it, submit an exceptional circumstances motion. If the motion is not made within the time limit, the clerk will strike the paper filing from the docket. The exceptional circumstances motion must be accompanied by:

(i) A declaration or affidavit detailing the exceptional or emergency circumstances that precluded an electronic filing. The declaration must include the number of previous exceptional circumstances motions made by the office or firm that employs the person making the affidavit or declaration; and

(ii) A proposed order that the court may use in granting the exceptional circumstances motion.

(C) Exceptional circumstances include the unpreventable unavailability of Internet services available to the person presenting the filing. Filings that assert this ground of exceptional circumstances must detail the extent and nature of the unavailability and what steps (if any) will be taken to ensure that the unavailability will not recur. Exceptional circumstances do not include an inability to file because of a failure to receive the training necessary to access the court's Electronic Filing System. In deciding whether to grant the exceptional circumstances motion and allow a paper filing, the court may consider the number and extent of prior motions made by the moving party for exceptions to the electronic filing requirement.

(6) If the court finds that there are exceptional or emergency circumstances that warrant an exception to the electronic filing requirement, it will grant the motion. In addition, if the court has not affirmatively denied the motion within three (3) business days after the clerk receives it, the clerk will consider the motion granted and will not strike the filing. But if the court denies the motion, the clerk must strike the filing from the court's records, and the filing will be treated as if it had not occurred.

(b) Electronic service.

(1) Parties are authorized to serve documents under Fed. R. Civ. P. 5(b)(2)(D) through the court's transmission facilities, subject to the electronic filing procedures, which may be revised from time to time.

(2) Electronic transmission of the Notice of Electronic Filing constitutes service or notice of the filed document on any person who is a registered participant in the Electronic Filing System, except for service under Fed. R. Bankr. P. 7004, and for other exceptions in accordance with the Federal Rules of Bankruptcy Procedure and the Local Rules.

(3) Generally, only attorneys and trustees are registered participants in the Electronic Filing System. The Notice of Electronic Filing is sent electronically to:

(A) All registered participants in the system who have entered an appearance in the particular case or proceeding by filing a document or requesting notice in the case;

(B) The case trustee in cases (but not in adversary proceedings); and

(C) The United States trustee in cases (but not in adversary proceedings).

(4) Service or notice on an attorney does not constitute service on a client of that attorney or an entity unless the attorney is authorized to accept service by the client, by law, or by court order.

(c) Change of address and list of cases.

(1) If attorneys change their mailing address, email address, or association with a law firm, a Notice of Change of Address and Designation of Cases must be submitted to the court to update the electronic filing system. If attorneys will not remain associated with all of their prior cases, they must identify those cases in which they will no longer be associated and provide a substituted email address. Orders for substitution of counsel must be obtained in accordance with LR IA 10-6 of the Local Rules of Practice for the United States District Court for the District of Nevada before the court will change the designation. The substitution orders must be attached to the form, which is available on the court's website and must be mailed or delivered to the appropriate address:

United States Bankruptcy Court
The Foley Federal Building and U.S. Courthouse
300 Las Vegas Blvd. South, Suite 4-242
Las Vegas, Nevada 89101
Attn: CM/ECF Systems Administrator

or

United States Bankruptcy Court
The C. Clifton Young Federal Building and U.S. Courthouse
300 Booth Street, Room 1109
Reno, Nevada 89509
Attn: CM/ECF DQA/Trainer.

(2) If attorneys fail to update their mailing address or email address as required by this rule, service made to their address of record will be deemed good service, unless the court orders otherwise.

(d) **Waiver.** By executing a written waiver when they register for the Electronic Filing System, participants consent to service by electronic transmission except as provided below.

(1) The signed waiver constitutes waiver of the following:

(A) The right to receive notice by first class mail;

(B) The right to receive service by personal service or first class mail; and

(C) The right to receive service and notice by first class mail of the notice of entry of an order and judgment under Fed R. Bankr. P. 9022.

(2) The signed waiver is also consent to receive notice electronically for all matters for which the attorney is entitled to notice, and consent to receive electronic service for all matters for which the attorney is entitled to service except with regard to those matters listed in LR 7004.

(3) The signed waiver constitutes a written request for notice by electronic transmission under Fed. R. Bankr. P. 9036.

(4) Waiver does not constitute an agreement by an attorney to accept service or notice on behalf of a client.

(e) **Paper copies.** Parties are entitled to receive a paper copy of any electronically filed document from the filer in circumstances where conventional service is required or where parties are not registered in the Electronic Filing System.

(f) **Filing papers.** Cases must be filed with the clerk of the United States Bankruptcy Court for the District of Nevada at Las Vegas or Reno in accordance with LR 1071. Once filed, cases will be administered, papers and pleadings will be docketed, and open files will be retained in the place where the case was filed, unless the court orders otherwise.

(g) **No effect on deadlines.** Nothing in this rule will affect the rules regarding the timing or timeliness of any filing under the Local Rules or under the Federal Rules of Bankruptcy Procedure.

LR 5007. RECORD OF PROCEEDINGS AND TRANSCRIPTS.

Any party ordering transcripts of proceedings must give at least five (5) days' notice to the clerk of the need for daily transcripts.

LR 5009. CHAPTER 13 DISCHARGE AND CLOSING PROCEDURES.

(a) Trustee's final report. After the debtor has complied with all provisions of the plan and completed all payments to the trustee, and no more than ten (10) days after the chapter 13 standing trustee makes the final disbursement to creditors, the trustee will file with the court the Trustee's Final Account and Report, which will be noticed to all creditors and will include a date within thirty-five (35) days by which parties must file a written objection.

(b) Entry of discharge. If no objections to the final account and report are timely filed, the clerk will automatically enter the discharge of the debtor.

(c) Objections to report. If an objection to the final account and report is timely filed, the discharge will be withheld until the matter is resolved by the court. The trustee will schedule a hearing on the objection, and the discharge will be withheld until the hearing is held and the court resolves the matter.

(d) Trustee's final distribution account and report. After all distribution checks have cleared and the estate has been fully administered, the chapter 13 standing trustee will file with the court the Trustee's Final Distribution Account and Report, which will be served on the debtor, debtor's counsel, if any, and the United States trustee.

(e) Closing case.

(1) In a completed case, when the Trustee's Final Distribution Account and Report is filed, the clerk will promptly enter the Final Decree discharging the trustee and closing the case.

(2) In a dismissed or hardship discharge case, when the Trustee's Final Distribution Account and Report is filed, the clerk will promptly enter an order discharging the trustee and closing the case.

(3) In a converted case, when the Trustee's Final Distribution Account and Report is filed, the Clerk will promptly issue an order discharging the trustee.

LR 5010. REOPENING CASES.

(a) Disclosure of payment or nonpayment of fees. Anyone filing a motion to reopen a bankruptcy case must disclose the payment or nonpayment of any fee owed in the original case, including any filing fee or administrative fee prescribed by 28 U.S.C. § 1930(a) and by the Judicial Conference of the United States.

(b) Payment of fees. Unless the court orders otherwise, anyone filing a motion to reopen a bankruptcy case must pay any filing or administrative fees due to the clerk and any other fees remaining unpaid in the original case as required by 28 U.S.C. § 1930(a) and by the Judicial Conference of the United States. Payment of the fees is due immediately on filing the motion.

LR 5011. WITHDRAWAL OF THE REFERENCE.

(a) Form of request and place for filing. A request for withdrawal of the reference in whole or in part of a matter referred to the bankruptcy judge, other than a request by the bankruptcy court on its own or the automatic withdrawal as provided in a jury case by LR 9015(e), must be by motion filed timely with the clerk of the bankruptcy court. All such motions must conspicuously state that “RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE.”

(b) Time for filing. Except as provided in these rules regarding adversary proceedings and contested matters, a motion to withdraw the reference of a bankruptcy case in whole or in part must be served and filed at or before the time first scheduled for the meeting of creditors held under 11 U.S.C. § 341(a). Except as provided in these rules as to contested matters, a motion to withdraw the reference of an adversary proceeding, in whole or in part, must be served and filed on or before the date on which an answer, reply, or motion under Fed. R. Bankr. P. 7012 or 7015 is first due. A stipulation to extend the time to answer or otherwise respond to the complaint does not extend the time for filing the motion for withdrawal. A motion to withdraw the reference of a contested matter must be served and filed not later than eleven (11) days after the motion, application or objection is served initiating the contested matter. However, a motion to withdraw the reference may be served and filed no later than eleven (11) days after service of any timely filed pleading containing the basis for the motion.

(c) Stay. Filing a motion to withdraw the reference does not stay any proceeding in United States Bankruptcy Court, and Fed. R. Bankr. P. 8005 governs.

(d) Designation of the record.

(1) When it files and serves the motion to withdraw the reference, the moving party must also designate the portions of the record of the bankruptcy court proceedings that it believes will reasonably be pertinent to the district court’s consideration of the motion. Within eleven (11) days after service of the designation of record, any other party may serve and file a designation of additional portions of the record.

(2) Original pleadings filed on paper before January 2, 2002 will remain in the custody of the bankruptcy court, unless an order from a bankruptcy judge or a district court judge directs the original paper documents forwarded to the district court. Pleadings in cases filed on or after January 2, 2002 are available electronically through PACER (Public Access to Court Electronic Records).

(3) Unless the bankruptcy or district court requires otherwise, a copy of the designated material from the court’s official file will be sent to the district court.

(4) The clerk of the bankruptcy court will request copies from the party or parties designating the record. The copies must be given to the clerk in chronological order within ten (10) days of the date of the request. If any party fails to give copies to the clerk within ten (10) days, the clerk may make copies at the designating party’s expense. All parties must take any other action necessary to enable the clerk to assemble and transmit the record.

(5) If the record designated by any party includes a transcript or part of a transcript of any proceeding, that party must immediately after filing the designation, give to the court recorder and file with the clerk of the bankruptcy court a written request for the transcript and arrange to pay for it.

The parties must submit only those parts of the transcript that are relevant to the motion for withdrawal of the reference.

(6) If the issues involve only questions of law, the parties may submit an agreed statement of facts of the parts of the record that are relevant to the questions of law, unless the district judge considering the motion directs otherwise.

(e) Responses to motion to withdraw the reference; reply. Opposing parties must file with the clerk of the bankruptcy court, and serve on all parties to the withdrawal of the reference matter, their written opposition to the motion to withdraw the reference within eleven (11) days after the motion is served. The moving party may serve and file a reply within eleven (11) days after a response is served. The parties to any motion to withdraw the reference may consent to the bankruptcy judge hearing the motion in the first instance and making proposed findings of fact, conclusions of law, and recommendations for disposition of the motion by the district court. Consent must be in writing and filed with the clerk of the bankruptcy court no later than the last day for filing any opposition to the motion to withdraw the reference.

(f) Transmittal to and proceedings in United States District Court. When the record is complete except for transcripts, the bankruptcy court clerk will promptly send to the district court clerk the motion papers and the portions of the record designated. After a docket is opened in district court, documents pertaining to the matter under review must be filed with the district court clerk, but all documents relating to other matters in the bankruptcy case, adversary proceeding, or contested matter must continue to be filed with the clerk of the bankruptcy court. Any motion and any request by the bankruptcy court on its own to withdraw the reference must be referred to the chief district judge or the chief district judge's designee for decision in the district court. But if the matter is withdrawn it must be assigned to a district judge in accordance with the court's usual system for assigning civil cases, unless the chief district judge determines that exceptional circumstances warrant special assignment to a district judge. If the district court requests, the bankruptcy judge will determine, in accordance with 28 U.S.C. § 157(b)(3), whether any proceeding in which withdrawal of the reference is sought, in whole or in part, is a core proceeding, and the bankruptcy judge may make findings and recommendations. The district court may, in its discretion, grant or deny the motion to withdraw the reference, in whole or in part. If the reference is withdrawn, the district court may retain the entire matter or may refer part or all of it back to the bankruptcy judge with or without instructions for further proceedings.

LR 5075. CLERK - DELEGATED FUNCTIONS.

(a) United States Bankruptcy Court clerk.

(1) The clerk of the bankruptcy court has the same rights and powers, may perform the same functions and duties, and is subject to the same provisions of 28 U.S.C. § 751 as a clerk of the district court. Under 28 U.S.C. § 956, the judges of this court further assign the following powers and duties to the clerk of the bankruptcy court:

(A) Assignment of cases and proceedings commenced under Title 11, United States Code, in accordance with the provisions of 28 U.S.C. § 157, including the reassignment of a case to another bankruptcy judge of the district, on the oral or written directive of the judge assigned to the case; and

(B) Signing and entering all orders and process specifically allowed to be signed by the clerk under Title 28, United States Code, and the Federal Rules of Civil Procedure as modified by the Federal Rules of Bankruptcy Procedure. If the Federal Rules of Civil Procedure delegate a duty of the court to the clerk, a bankruptcy court clerk may perform the same type of duty specified in the Federal Rules of Bankruptcy Procedure.

(2) Specific duties assigned to the clerk. Unless the court orders otherwise, the clerk is authorized to sign and enter the following orders, which are deemed to be ministerial:

(A) Orders specifically appointing persons to serve process in accordance with Fed. R. Civ. P. 4;

(B) Orders on stipulation:

(i) Noting satisfaction of a judgment;

(ii) Approving and annulling bonds filed or to be released by court order and exonerating sureties; or

(iii) Setting aside a default;

(C) Orders and notices that establish meeting and hearing dates required or requested by a party in interest under Title 11, United States Code, including orders that fix the last dates for filing objections to discharge and confirmations of plans, complaints to determine the dischargeability of debts and proofs of claim;

(D) Orders and notices regarding duties of debtors and debtors in possession;

(E) Orders discharging a debtor in a chapter 7 case if there is no pending motion to dismiss under 11 U.S.C. § 707(b) and if there has not been a timely filed objection to discharge of the debtor or a waiver by the debtor of the debtor's discharge. But only a judge may sign a discharge following a hearing of a motion to dismiss under 11 U.S.C. § 707(b) or a trial on an objection to the discharge;

(F) Orders discharging a debtor in a chapter 13 case as provided in 11 U.S.C. § 1328 if an objection to discharge of the debtor has not been filed or a waiver by the debtor of its discharge. But only a judge may sign a discharge order following trial on an objection to the discharge;

(G) Orders of Substitution on filing an Assignment of Claim, after due notice to the assignor that the Assignment of Claim was filed;

(H) Orders sustaining trustee's Objection to Claims, after notice and hearing, if no written response to the objection has been filed and if the claimant did not appear at the hearing to consider the objections;

(I) Orders approving the final fees and expenses of the trustee in a chapter 7 case with estates of \$1,500 or less; and in cases with estates of more than \$1,500, after notice and hearing, where no timely objection was made to the final fees and expenses;

(J) Orders of Abandonment, after notice and hearing under 11 U.S.C. §§ 102(1) and 554(a) and (b) and under Fed. R. Bankr. P. 6007. But when an objection to a proposed abandonment has been filed, only a judge may sign the order approving or disapproving the abandonment;

(K) Orders closing cases and discharging the trustee in all cases in which the trustee has filed a final account and certified that the case has been fully administered under Fed. R. Bankr. P. 5009, and orders entering final decrees in chapter 11 cases under Fed. R. Bankr. P. 3022;

(L) Orders under LR IA 10-2 of the Local Rules of Practice for the United States District Court for the District of Nevada, granting permission to an attorney to practice in a particular case, and orders under LR IA 10-4, when ordered by the court in the particular case or in all cases assigned to a particular judge;

(M) Orders on all motions and applications of the type specified in Fed. R. Civ. P. 77(c);

(N) Orders permitting installment payment of filing fees and fixing the number, amount, and date of payment of each installment filed under LR 1006. An initial payment must be made within forty-eight (48) hours of filing the petition, a second payment must be made within thirty (30) days after filing the petition, and the balance of the filing fee must be paid within sixty (60) days after filing the petition in amounts specified in the list of required installment payment maintained by the clerk. An application requesting payments to be made differently, or a request for an extension beyond sixty (60) days, or a request that is received after entry of the first order entered by the clerk must be in writing and will be considered only by a judge;

(O) Orders reopening bankruptcy cases for administrative purposes;

(P) Orders authorizing examinations to be taken under Fed. R. Bankr. P. 2004 on not less than ten (10) business days' notice, except orders under Fed. R. Bankr. P. 2004(d), which must be signed by a judge;

(Q) Reaffirmation orders under 11 U.S.C. § 524(c), if (i) the debtor is represented by an attorney, and (ii) the court has approved the reaffirmation agreement after notice and hearing. If the debtor is not represented by an attorney, the clerk will forward the order to a judge for determination and entry;

(R) Orders withdrawing exhibits under LR 5003;

(S) Judgments on verdicts or decisions of the court in circumstances authorized in Fed. R. Civ. P. 58 as incorporated by Fed. R. Bankr. P. 9021;

(T) When parties file with the clerk a written stipulation for an extension of time to answer, plead or otherwise respond and no extension has been granted, a fact that must affirmatively appear in the stipulation, orders granting the stipulated extension for a period not exceeding thirty (30) days;

(U) Orders to assess, deduct and withdraw a fee from the court's registry account under 28 U.S.C. §§ 2041 and 2042 and LR 7067(i);

(V) Conditional orders of dismissal of cases for failure of the debtor to comply with Fed. R. Bankr. P. 1007 and Fed. R. Bankr. P. 3015(b);

(W) Orders to remove a name from the email service list; and

(X) Any other orders that under applicable rule or statute do not require special direction by the court.

(3) A judge may for good cause suspend or rescind any action taken by the clerk in connection with the powers and duties described in this rule.

(b) Authorization to issue notices or orders to show cause. The clerk and deputy clerks of the court are authorized to issue notices or orders to show cause for failure of a party to comply with the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, these local rules, or any order of this court.

LR 6006. DEBTOR'S ABILITY TO ASSUME A CONTRACT AFTER ESTATE REJECTS.

Notwithstanding the requirements of LR 2002, if an individual debtor elects to assume a contract under 11 U.S.C. § 365(p)(2), the only notice that he or she must give under either Section 365(p)(2)(A) or 365(p)(2)(B) is notice to the nondebtor party or parties to the contract being assumed, and to the trustee, or if there is no trustee, to the Office of the United States trustee. No additional notice is required. The court may enter an order on a stipulation signed by all these parties without holding a hearing.

LR 7003. COVER SHEET FOR ADVERSARY PROCEEDINGS.

All adversary proceedings in bankruptcy court filed on paper must be accompanied by a properly completed bankruptcy adversary proceeding cover sheet, Form B104. Adversary proceedings filed electronically do not require a cover sheet.

LR 7004. LIMITS OF ELECTRONIC SERVICE.

(a) Service. Electronic transmission of the Notice of Electronic Filing does not constitute service or notice of the following documents, which must be served on paper:

(1) Service of a summons and complaint under Fed. R. Bankr. P. 7004;

(2) Service of a motion commencing a contested matter under Fed. R. Bankr. P. 9014 unless there is consent to electronic service;

(3) Service of a subpoena under Fed. R. Bankr. P. 9016;

(4) Service of a petition under Fed. R. Bankr. P. 1010;

(5) Where conventional service is otherwise required under the Federal Rules of Bankruptcy Procedure, the Local Rules, or by court order.

(b) Contested matters - consent to electronic service. Electronic transmission is the equivalent of service by mail under Fed. R. Bankr. P. 7004 for any person who has given consent to receive electronic service and notice of motions initiating contested matters under Fed. R. Bankr. P. 9014(b).

(1) Persons may acknowledge their consent to receive electronic service and notice of motions initiating contested matters by signing and submitting the court's Consent to Accept Electronic Service and Notice of Motions Initiating Contested Matters form, which is available on the court's website.

(2) The court will maintain a list of persons who have submitted the signed consent and have thereby agreed to receive service and notice by electronic transmission of motions initiating contested matters. The list will be maintained on the court's website.

(3) The lack of a signed consent does not mean that a person has not otherwise agreed to accept electronic service and notice of a contested matter motion.

(4) Unless otherwise agreed to, consent to receive electronic service and notice of contested matter motions does not constitute an agreement by an attorney to accept service on behalf of a client and does not alter other service requirements in Fed. R. Bankr. P. 7004, such as to whom or where service must be made.

LR 7005. CERTIFICATE OF SERVICE (ADVERSARY PROCEEDINGS).

(a) Certificate of service. A proof of service, preferably using the court's Certificate of Service form, must be filed for all papers and pleadings required or permitted to be served. The proof must show the date of service, the name of the person served, and the manner of service (e.g., electronically or by mail). Proof of service is deemed sufficient if it complies with the court's Certificate of Service form, which is available from the clerk or the court's website.

(b) Failure to file a proof of service. The court may refuse to take action on any papers or pleadings until a proof of service is filed. If an affidavit or certificate of service is attached to the original pleading, it must be attached so that the character of the pleading is easily discernible. Failure to file the proof of service does not affect the validity of the service, and the court may at any time allow the proof of service to be amended or supplied unless it clearly appears that doing so would result in material prejudice to the substantial rights of any party.

LR 7007.1 CORPORATE OWNERSHIP STATEMENT.

In addition to the requirements of Fed. R. Bankr. P. 7007.1, counsel must comply with the requirements of LR 10-6 of Part II of the Local Rules of Civil Procedure of the United States District Court for the District of Nevada – Certificate of Interested Parties – which is adopted in full.

LR 7010. GENERAL REQUIREMENTS OF FORM.

(a) Form of papers. After notice and hearing, any paper or pleading filed that does not conform to an applicable provision of these rules or any Federal Rule of Bankruptcy Procedure may be stricken by the court on its own motion. Whenever there are more than five (5) plaintiffs or defendants in the caption of a complaint or third party complaint, the filing party must at the same time file an alphabetical list of the parties.

(b) Caption, title of court and name of case. In addition to the requirements of LR 9004, the caption must include the caption of the adversary proceeding as well as the caption of the case, including the adversary proceeding number. If a scheduling conference has been set, the complaint and answer must indicate that date in the space for hearing date and time, like this:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:	)	BK-S-95-00123-LBR
	)	CHAPTER 7
JOHN DOE,)	
	)	ADVERSARY NO: BK-S-95-2001-LBR
Debtor)	
)	
JOHN DOE,	)	DEFENDANT'S ANSWER TO
	)	COMPLAINT TO DETERMINE
Plaintiff	)	DISCHARGEABILITY OF DEBT
)	
v.	)	Hearing Date (Scheduling conf.):
	)	Hearing Time:
RICHARD ROE,	)	Estimated Time:
)	
_____ Defendant)	

(c) Copies. The clerk maintains a list of copy requirements that specifies the number of copies to be submitted. The copy requirements may be revised from time to time, and when they are revised, the list of copy requirements will be reissued in full with a notation of the effective date of the revision. The list of copy requirements is available from the clerk and is posted on the court's website.

(1) Unless otherwise required, counsel or persons appearing *pro se* must submit the original pleadings, summons, orders, or other papers and the required number of copies.

(2) If anyone filing a document wishes to receive a file-stamped copy of it, the filer must submit one (1) additional copy. Filers who wish to have the file-stamped copy returned by mail must include a self-addressed stamped envelope.

LR 7015. AMENDED AND SUPPLEMENTAL PLEADINGS.

(a) Any motion to amend the pleadings must have a copy of the proposed amended pleading included as an exhibit. Unless the court permits otherwise, every amended pleading must be reprinted and filed so that it will be complete in itself, including exhibits, without reference to the superseded pleading.

(b) If the motion is granted, the moving party has ten (10) days from the entry of the order approving the motion to file and serve an original amended pleading.

LR 7016. PRETRIAL PROCEDURES.

(a) Actions exempt from scheduling order. Except as the court orders, the following categories of cases are exempt from the requirements of Fed. R. Civ. P. 16(b) as adopted by Fed. R. Bankr. P. 7016:

- (1) Contested matters under Fed. R. Bankr. P. 9014; and
- (2) Other actions or categories of actions as the court orders.

(b) Time and issuance for scheduling order.

(1) The plaintiff must serve the Standard Discovery Plan form, which may be obtained from the clerk, at the time a summons is issued. The parties must use the standard form.

(2) Within thirty (30) days after the first defendant has answered or otherwise appeared, the parties must meet as required by Fed. R. Bankr. P. 7026 and LR 7026. No later than fourteen (14) days after the meeting, the parties must complete and submit the information required by the discovery plan or Request for Waiver, and, if required by a judge, a form Order.

(3) If the parties agree to the standard deadlines or fail to submit the discovery plan, the standard deadlines will govern.

(4) If the parties have agreed to different deadlines, cannot agree on deadlines, or wish to seek a waiver of the requirement for a discovery plan, they must say so on the front page of the discovery plan.

(5) Unless they are excused, the parties must appear at any scheduling conference.

(6) After the first scheduling conference, the court will approve, disapprove, or modify the discovery plan, enter other orders as appropriate, and issue an Order Regarding Pretrial and Trial. The court may order a status hearing or a conference of all the parties at any time.

(c) Time limits for filing certain motions. Unless the court orders otherwise, the following time periods govern filing certain motions:

(1) All motions to amend the pleadings under Fed. R. Bankr. P. 7015(a) or for the joinder of parties must be filed in time to be heard no later than the close of discovery. If the amendment or

joinder is allowed, unless the court orders otherwise, discovery will be extended for forty-five (45) days for the limited purposes of conducting discovery on the amendments or joinders;

(2) Unless otherwise ordered, all potentially dispositive motions on any issues must be filed by the close of discovery; and

(3) Motions *in limine* must be filed at the time of the pretrial conference, and any responses must be filed no less than five (5) business days before the start of trial. No reply will be permitted unless the court requests one.

(d) Pretrial order and trial setting.

(1) The Order Regarding Pretrial and Trial may set the date for filing a joint or separate trial statement(s). The court may, however, order a joint pretrial order at any time. Unless otherwise ordered, the parties must use the prescribed Pretrial Order and Standard Trial Statement, both of which may be obtained from the clerk or the court's website.

(2) The court may set a trial date in the Order Regarding Pretrial and Trial or by separate written or oral order. Continuances are disfavored.

(e) Settlement conference and alternative methods of dispute resolution. The court may set any adversary proceeding for settlement conference, summary jury trial, or other alternative method of dispute resolution.

LR 7026. DISCOVERY - GENERAL.

(a) Disclosures. Unless the court orders otherwise, the disclosures required by Fed. R. Civ. P. 26(a)(2), as adopted by Fed. R. Bankr. P. 7026, must be made no later than thirty (30) days before the close of discovery by the party bearing the burden of proof on the issue in question and no later than fifteen (15) days before the close of discovery by the opposing party. Written reports by experts, unless otherwise stipulated by the parties or ordered by the court, are due no later than the time the identity of experts is to be disclosed.

(b) Exemptions from the provisions of Fed. R. Civ. P. 26(f).

(1) Exemption of an action from Fed. R. Civ. P. 26(f), not otherwise exempted by Fed. R. Civ. P. 26(a)(1)(E), may be obtained by court order after a motion noticed to all parties to the action or by stipulation of all parties before the date any meeting under this rule is to be held. The parties obtaining an exemption under this subsection do not have to file a discovery plan.

(2) LR 7016 and 7026(c) govern the requirements for discovery plans. The parties to an action not exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under subsection (b)(1) of this rule may seek a limited exemption from Fed. R. Civ. P. 26(f) insofar as the rule requires filing a discovery plan. In cases in which the parties certify that no formal discovery is required, they may request a waiver of the requirement for a discovery plan. Trial may proceed one hundred twenty (120) days from the date a discovery plan would have been due. The parties may request the waiver by so indicating on the standard discovery plan/scheduling form and by completing all information requested on that form.

(c) Discovery conference and plan.

(1) Unless exempted, the parties must meet and confer no later than thirty (30) days after the first defendant has answered or otherwise appeared.

(2) No later than fourteen (14) days after the meeting, the parties must submit the discovery plan or request for waiver and order. If the parties fail to submit a discovery plan, they may be subject to sanctions. In addition, if they have not requested and been granted a waiver from the requirement to file a discovery plan, the deadlines set forth in the standard form will apply, even if the parties have not submitted a plan.

(3) The court may conduct a scheduling conference to consider the submitted discovery plan and to issue an order regarding pretrial and trial.

(4) The court may alter the standard form, including the deadlines it contains. Counsel must use the format then in use, and the deadlines set forth in the standard form will apply unless the court orders different deadlines.

(5) If the parties agree to different deadlines, or cannot agree on deadlines, they must so indicate on the face of the standard discovery plan, and they must attach their proposed plan using Form 35 of the Federal Rules of Civil Procedure or other form as the court may direct.

(d) Discovery limitations.

(1) Unless the court orders otherwise, in cases in which a discovery plan is required, all discovery must begin in time to be completed by one hundred twenty (120) days after the answer or first appearance by the first defendant.

(2) Unless the court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under subsection (b)(1) of this rule may begin discovery on the commencement of the action.

(3) The court will approve, disapprove, or modify the discovery plan and enter other orders as appropriate after the first scheduling conference. At any time, on request of a party or on its own, the court may order a conference of all the parties to discuss the provisions of the discovery plan or scheduling order.

(e) Extension of discovery time.

(1) Unless the court orders otherwise, an extension of the discovery deadline will not be allowed without a showing of good cause as to why all discovery was not completed within the time allotted. The court must receive all motions or stipulations to extend discovery at least twenty (20) days before the date fixed for completion of discovery, or at least twenty (20) days before the expiration of any extension that the court may have approved. The motion or stipulation to extend time or to reopen discovery must include:

(A) A statement of the discovery that the parties have completed as of the date of the motion or stipulation;

(B) A specific description of the discovery remaining to be completed;

(C) The reasons why the remaining discovery was not completed within the time limit of the existing discovery plan; and

(D) A proposed schedule for completing all remaining discovery.

(2) Counsel must ensure that all discovery is initiated so it can be completed by the end of the period set out in the discovery plan. No additional discovery will be permitted after that, except as provided above.

(f) Demand for prior discovery. Whenever a party makes a written demand for discovery that took place before that person or entity became a party to the action, each party who has previously responded to a request for admission or production or answered interrogatories must furnish to the demanding party (1) the documents containing the discovery responses in question for inspecting and copying; (2) a list identifying each document by title; or (3) on further demand, at the expense of the demanding party, a copy of any listed discovery response specified in the demand. If there are requests for production, a party must make available for inspection by the demanding party all documents and things previously produced. Further, each party who has taken a deposition must make a copy of the transcript available to the demanding party for copying at the demanding party's expense.

(g) Discovery motions.

(1) All motions to compel discovery or for protective orders must, in addition to the discovery being sought or enjoined in the motion, set forth in full the text of the discovery originally sought or enjoined and the response made to it, if any, and comply with Fed. R. Civ. P. 26(c), as adopted by Fed. R. Bankr. P. 7026.

(2) Discovery motions will not be considered unless a statement of moving counsel is attached certifying that, after consultation or sincere effort to do so, the parties have been unable to resolve the matter without court action.

(3) Any attorney or party appearing *pro se* may make written application to, or, where time does not permit, may telephone the court, to request judicial assistance in resolving an emergency discovery dispute. The attorney or party seeking emergency relief must endorse on the face of any written application the words, "Request for Emergency Relief."

(h) Filing discovery papers. Notices of deposition, depositions, interrogatories, requests for production or inspection, requests for documents, requests for admissions, answers and responses, and proof of service should not be filed with the court unless the court orders filing on its own motion or on motion of a party. Originals of responses to requests for admissions or production and answers to interrogatories must be served on the party who made the request or propounded the interrogatories, and that party must make the originals available at the time of any pretrial hearing or at trial for use by any party. Likewise, the deposing party must make the original transcript of a deposition available at the time of any pretrial hearing or at trial for use by any party or filing with the court if so ordered.

(i) Contested matters under Fed. R. Bankr. P. 9014. Unless the court orders otherwise, Fed. R. Bankr. P. 7026 and LR 7026 do not apply to contested matters filed under Fed. R. Bankr. P. 9014.

LR 7030. DEPOSITIONS UPON ORAL EXAMINATION.

(a) Commencement of discovery. Unless the court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1) may begin discovery on commencement of the action.

(b) Commencement of discovery by deposition.

(1) Normally, depositions may be taken without leave of court in an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1). But if the plaintiff seeks to take the deposition within thirty (30) days after service of the summons and complaint, court approval is required. However, if a defendant in the adversary proceeding has served a notice of taking deposition or otherwise sought discovery, leave of court is not required.

(2) Depositions may be taken without leave of court unless the party in an adversary proceeding seeks to take a deposition before the parties confer in accordance with Fed. R. Civ. P. 26(f).

(c) Requirements for transcripts. Unless the parties stipulate or the court orders otherwise, depositions must be recorded by stenographic means.

LR 7031. DEPOSITIONS UPON WRITTEN QUESTIONS.

(a) Commencement of discovery. Unless the court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1) may begin discovery on the commencement of the action.

(b) Commencement of discovery by deposition upon written questions. Except as provided in Fed. R. Civ. P. 31(a)(2)(B):

(1) After commencement of an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1), any party may take the testimony of any person, including a party, by deposition upon written questions.

(2) Depositions may be taken upon written questions without leave of court unless the party in an adversary proceeding seeks to take a deposition before the parties confer in accordance with Fed. R. Civ. P. 26(f).

(c) Requirements for transcripts. Unless the parties stipulate or the court orders otherwise, depositions must be recorded by stenographic means.

LR 7032. USE OF DEPOSITIONS IN ADVERSARY PROCEEDINGS.

(a) Applicability. This rule does not apply in matters that are tried by a jury. In a jury trial, a party may ask to read into the record a deposition or other transcribed statement taken under oath.

(b) Designation. Any party intending to offer deposition testimony or other transcribed statements made under oath (such as at a 341 meeting of creditors or at a 2004 examination) must prepare a statement clearly identifying the name of the deponent or person otherwise examined, the date of the deposition or other type of examination taken under oath, and the specific portions of the deposition or transcribed statement, by page and line numbers, that will be offered as evidence. The party must also include as an exhibit a copy of the entire transcribed record.

(c) Exchange of statements and objections. Unless the court orders otherwise, copies of all statements and objections must be furnished to opposing counsel and lodged with the court. Cross reference is made to the procedural rules for filing oppositions, replies and other responses, and to LR 9017.

(1) The plaintiff or movant must submit all statements to opposing counsel at least ten (10) business days before the trial or the hearing on the contested matter, with the opposition to the contested matter.

(2) The defendant or respondent must submit all statements or objections to opposing counsel with a reply served in accordance with LR 9014.

(3) Two (2) business days before trial or the hearing on a contested matter each party must lodge with the courtroom deputy clerk or the judge to whom the matter is assigned, one (1) copy of all statements intended to be offered as evidence by that party, and an original and one (1) copy of that party's written objections to the admission of any deposition testimony or transcribed statement taken under oath of an opposing party.

LR 7033. INTERROGATORIES TO PARTIES.

(a) Commencement of discovery. Unless the court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1) may begin discovery on the commencement of the action.

(b) Number of interrogatories permitted; commencement of discovery by interrogatories.

(1) Unless the court orders otherwise or it is stipulated by the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1), after commencement of the action, any party may serve on any other party not more than twenty-five (25) interrogatories, including all discrete subparts. A defendant in an adversary proceeding is not required to serve answers or objections to interrogatories within forty-five (45) days after service of the summons and complaint.

(2) Interrogatories may be served under Fed. R. Civ. P. 33 without leave of court unless the party in an adversary proceeding seeks to serve interrogatories before the parties confer in accordance with Fed. R. Civ. P. 26(f).

LR 7034. PRODUCTION OR INSPECTION OF DOCUMENTS AND THINGS.

(a) Commencement of discovery. Unless the court orders otherwise, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained pursuant to LR 7026(b)(1) may begin discovery on the commencement of the action.

(b) Requests for production or inspection.

(1) Unless the court orders otherwise or it is stipulated by the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1), any party may serve on any other party a request for production or inspection after commencement of the action. A defendant in an adversary proceeding is not required to respond within forty-five (45) days after service of the summons and complaint.

(2) Requests for production or inspection may be served under Fed. R. Civ. P. 34 without leave of court unless a party in an adversary proceeding requests production or inspection before the parties confer in accordance with Fed. R. Civ. P. 26(f).

(c) Responses to discovery sought. All responses to discovery sought must, immediately preceding the response, identify the number or other designation and set forth in full the text of the discovery sought.

LR 7035. PHYSICAL AND MENTAL EXAMINATIONS OF PERSONS.

Whenever a party in the pleadings filed with the court places any party's present, past or future physical or mental condition in issue, that party may not prevent discovery of information concerning such physical or mental condition or prior history related thereto by asserting any physician-patient privilege provided by state law against discovery or information concerning such physical or mental condition or prior history directly related thereto.

LR 7036. REQUESTS FOR ADMISSION.

(a) Commencement of discovery. Unless the court orders otherwise, after the commencement of an action, the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1) may begin discovery.

(b) Requests for admissions.

(1) Unless the court orders otherwise or it is stipulated by the parties to an action exempted by Fed. R. Civ. P. 26(a)(1)(E) or by order obtained under LR 7026(b)(1), after commencement of the action, any party may serve a request for admission on any other party. A defendant in an adversary proceeding is not required to serve answers or objections to requests for admissions within forty-five (45) days after service of the summons and complaint.

(2) Requests for admission may be served under Fed. R. Civ. P. 36 without leave of court unless a party in an adversary proceeding seeks to request admission before the parties confer in accordance with Fed. R. Civ. P. 26(f).

LR 7041. DISMISSAL FOR LACK OF PROSECUTION.

Any proceeding that has been pending in this court for more than one (1) year without any activity of record may, after notice, be dismissed for want of prosecution on motion of counsel, any party, or by the court. In addition, in appropriate circumstances, the court may issue an order to show cause why a proceeding should not be dismissed regardless of how long it has been pending.

LR 7054. COSTS - TAXATION/PAYMENT.

The requirements of LR 54-1 through LR 54-16 of Part II of the Local Rules of Civil Procedure for the United States District Court for the District of Nevada are adopted in full.

LR 7056. SUMMARY JUDGMENT.

(a) Motions. Motions for summary judgment must include a concise statement setting forth each fact material to the disposition of the motion that the party claims is, or is not, genuinely in issue, citing the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission or other matter on which the party relies.

(b) Responsive memorandum. Unless the court orders otherwise, an opposing party has fifteen (15) days after service of the moving party's points and authorities to file and serve a memorandum of points and authorities in opposition to the motion.

(c) Countermotion. The responsive party may file a countermotion for summary judgment. All such countermotions must be filed within the time that the party has for filing its responsive memorandum.

(d) Reply memorandum. Unless the court orders otherwise or a countermotion for summary judgment is filed, the moving party has ten (10) days after service of the responsive memorandum to file and serve a reply memorandum of points and authorities. If a countermotion for summary judgment is filed, a reply memorandum may be filed no later than fifteen (15) days after service of the countermotion. Any reply to the reply memorandum must be filed no later than five (5) days after service of the reply memorandum to the countermotion.

(e) Hearings on motions for summary judgment. The party moving for summary judgment must obtain a hearing date from the clerk for hearing the motion. Unless the court shortens the time for hearing, the date will not be less than forty-five (45) days from the date the motion was filed. Unless the court orders otherwise, the countermotion will be heard at the same time as the original motion.

LR 7062. SUPERSEDEAS BONDS ON STAY OF PROCEEDINGS TO ENFORCE A JUDGMENT.

Unless the court orders otherwise, a supersedeas bond must conform to the provisions of LR 7065.

LR 7064. SERVICE OF PROCESS.

(a) Service by the United States marshal. The United States marshal is authorized to serve civil process on behalf of the United States government without a court order.

(b) Service of process under state procedure. In cases or proceedings where the Federal Rules of Civil Procedure or the Federal Rules of Bankruptcy Procedure authorize the service of process to be made in accordance with Nevada state practice, counsel for the party seeking the service must give the clerk all necessary orders and sufficient copies of all papers to comply with the requirements of the state practice, together with specific instructions for administering service.

LR 7065. INJUNCTIONS.

(a) Qualification of surety. Except for bonds secured by cash, negotiable bonds, or notes of the United States as provided for in LR 7065(b), every bond must have as surety:

(1) A corporation authorized by the secretary of the treasury of the United States to act as surety on official bonds under 31 U.S.C. §§ 9304 through 9306;

(2) A corporation authorized to act as surety under the laws of the state of Nevada, which must have on file with the clerk a certified copy of its certificate of authority to do business in Nevada, together with a certified copy of the power of attorney appointing the agent authorized to execute the bond;

(3) One (1) or more individuals each of whom owns real or personal property sufficient to justify the full amount of the suretyship; or

(4) Any other security that the court may order.

(b) Deposit of money or United States obligation in lieu of surety. With court approval, there may be deposited with the clerk in lieu of surety:

(1) Lawful money accompanied by an affidavit that identifies its legal owner; or

(2) Negotiable bonds or notes of the United States accompanied by an executed agreement as required by 31 U.S.C. § 9303(a)(3) authorizing the clerk to collect or sell the bonds or notes in the event of default.

(c) Approval. Unless approval of the bond or the individual sureties is endorsed by the opposing counsel or a party appearing *in pro se*, the party offering the bond must apply to the court for approval. The clerk may approve bonds unless court approval is expressly required by law.

(d) Persons not to act as sureties. No officer of this court, or any member of the bar of this court, or any nonresident attorney specially admitted to practice before this court, or their office associates or employees may act as surety in this court.

(e) Judgment against sureties. Every surety who provides a bond or other undertaking with the court submits to the jurisdiction of the court regardless of what may otherwise be provided in any

security instrument. The surety who provides the bond or other undertaking irrevocably appoints the clerk as agent upon whom any paper affecting liability on the bond may be served. Liability will be joint and several and may be enforced summarily without independent action. Service may be made on the clerk, who will serve a copy as soon as possible to the surety at the last known address.

(f) Further security or justification of personal sureties. At any time, on reasonable notice to all other parties, any party for whose benefit a bond is presented or posted may apply to the court for further or different security or for an order requiring personal sureties to justify.

LR 7067. REGISTRY FUNDS.

(a) Deposits and investments.

(1) Funds will be deposited or invested in the registry account of this court under court order. Unless the court orders otherwise, money deposited with the court is to be placed in an interest-bearing account. Financial institutions meeting the requirements of 31 CFR 202 (formerly Treasury Circular 176) are the only authorized investment mechanisms. All applications, motions, or stipulations and any resulting court order directing the clerk to deposit or invest funds deposited in the registry account must contain the following information:

(A) The amount of funds tendered for deposit;

(B) The party on whose behalf the tender is made.

(C) The nature of the tender, e.g., an interpleader funds deposit or a cash bond in lieu of corporate surety in support of temporary restraining order, etc.;

(D) Whether the funds are tendered in accordance with a statute, rule or court order;

(E) The conditions of the deposit signed and acknowledged by the depositor, e.g., deposit into a financial institution meeting the requirements of 31 CFR 202. If the deposit is to be made into a financial institution meeting the requirements of 31 CFR 202, then:

(i) The type of account or instrument, and any terms of investment;

(ii) The bank or financial institution where the funds are to be deposited or invested; and

(iii) The amount of insurance and the federal agency insuring the account or instrument, together with a statement as to other accounts held by the party or parties at the bank or financial institution.

(F) Identification of any registry deposit intended to be a designated or qualified settlement fund and the name of the fund's administrator.

(2) If a financial institution is designated for the deposit into the court's registry, the funds must be deposited by the clerk only in a financial institution meeting the requirements of 31 CFR 202, and if the financial institution has pledged sufficient securities to secure the total sum of

deposits in excess of FDIC coverage (\$100,000 per account). If the financial institution does not have sufficient securities pledged, the funds will be deposited in an interest-bearing account in the financial institution that the court normally uses for registry funds until the designated financial institution has pledged the required securities and the clerk has received written verification. The clerk will then transfer the funds to the designated financial institution.

(3) If a depositor does not designate a financial institution meeting the requirements of 31 CFR 202 for the deposit into the registry account, the funds will be deposited in an interest-bearing account in the financial institution that the court normally uses for registry funds.

(4) Except for funds held for the benefit of the United States, for which no fee is charged, all orders for deposit or other investment of registry funds must contain the following statement: "The clerk of the court is directed to deduct from income earned on the investment a fee not exceeding that authorized by the Judicial Conference of the United States and set by the director of the administrative office." Funds held for the benefit of the United States are not subject to a fee.

(5) The moving party must identify any terms or conditions of any registry deposit in accordance to subsection (a)(1) of this rule. Failure to identify the minimum requirements releases the clerk from any liability for reporting or tax treatment of interest on the funds under Section 468B of the Internal Revenue Code (Title 26, U.S.C.).

(b) Certificate of cash deposit. The clerk may refuse to accept cash for deposit into the registry account without the Certificate of Cash Deposit required by these rules. If the cash is tendered to the clerk, it must be accompanied by a court order directing deposit in accordance with subsection (a) of this rule and a written statement entitled Certificate of Cash Deposit, which must be signed by counsel or a party appearing *pro se* and must contain the following information:

(1) The amount of cash tendered for deposit;

(2) The party on whose behalf the tender is made;

(3) The nature of the tender, e.g., an interpleader funds deposit or a cash bond in lieu of corporate surety in support of temporary restraining order, etc.;

(4) Whether the cash is tendered in accordance with a statute, rule or court order;

(5) The conditions of the deposit signed and acknowledged by the depositor, e.g., deposit into a financial institution meeting the requirements of 31 CFR 202 , and if so:

(A) The bank or financial institution where the funds are to be deposited or invested;

(B) The type of account or instrument and any terms of investment; and

(C) The amount of insurance and the federal agency insuring the account or instrument, together with a statement of any other accounts held by the party or parties at the bank or financial institution.

(6) Identification of any registry deposit intended to be a designated or qualified settlement fund and the identity of the fund's administrator; and

(7) A signature block for the clerk to acknowledge receipt of the cash tendered. The signature block must not be on a separate page, but must appear approximately one inch (1") below the last typewritten matter on the left side of the Certificate of Cash Deposit and must read as follows:

RECEIPT

Cash as identified herein is hereby acknowledged as being received this date.

Dated:

CLERK, U.S. BANKRUPTCY COURT

By:

Deputy Clerk

(c) Service of order. Counsel obtaining an order as described in subsection (a) of this rule must have a copy of the order served personally on the clerk or the clerk's financial administrator deputy in Las Vegas or the deputy in charge in the Reno divisional office. A supervisory deputy clerk may accept service on behalf of the clerk, financial administrator in Las Vegas, or deputy in charge in the Reno divisional office in their absence.

(d) Deposit of funds by the clerk after receipt of order. The clerk will take all reasonable steps to deposit funds into an interest-bearing account or instruments within fifteen (15) days after service of the order as provided by subsection (c) of this rule. Notwithstanding the provisions of subsection (a), if counsel fails to submit an order as required, the clerk may deposit funds to be held in the registry account in an interest-bearing account in the financial institution that the court normally uses for registry funds under subsection (a) of this rule.

(e) Moving party's verification of deposit or investment of funds. Any party or parties obtaining an order directing investment of funds by the clerk must verify with the clerk that the funds have been deposited or invested as ordered. The verification must be completed within fifteen (15) days after service of the order.

(f) Failure of compliance. If the party or parties fail to personally serve the clerk or financial administrator deputy in Las Vegas or the deputy in charge of the Reno divisional office, or, in their absence, a supervisory deputy clerk, with a copy of the order, or if the party or parties fail to verify investment of the funds, the clerk is released from any liability for the loss of interest earned on the funds.

(g) Moving party's responsibility for disposition of funds at maturity.

(1) The moving party must notice the clerk regarding disposition of funds at maturity of a timed instrument. In the absence of the notice, funds invested in a timed instrument subject to renewal will be reinvested for the same period of time at the prevailing interest rate. Funds invested in a timed instrument not subject to renewal will be redeposited by the clerk into an interest-bearing account in the financial institution that the court normally uses for deposit of registry funds.

(2) Service of notice as required by subsection (g)(1) of this rule must be made in accordance with the requirements of subsection (c) of this rule, and must be made no later than fifteen (15) days before maturity.

(h) Change in terms or conditions of an investment held in the registry account. Any change in terms or conditions of an investment must be by court order, and counsel must comply with subsections (a), (b), and (c) of this rule.

(i) Withdrawal of funds on deposit held in the registry account.

(1) No funds may be withdrawn from the registry account and released by the clerk except by court order under 28 U.S.C. § 2042.

(2) The clerk is authorized to withdraw funds from the registry account without delay as follows:

(A) Solely on presentation of a fully executed court order specifically waiving the period of appeal and stating that withdrawal and release of funds is to be made immediately or by a date certain. If the order does not state the appeal waiver, or a date certain for withdrawal of funds from the registry account, the clerk may withdraw and release the funds either at the end of the ten (10) day time for appeal prescribed by Fed. R. Bankr. P. 8002(a), or when an appeal is determined final and nonappealable; or

(B) Without further order under the delegated authority of LR 5075(a)(2)(U), which allows the clerk to assess, deduct, and withdraw a fee from the registry account. The collection of the fee must be made at the time any distribution of funds is made by the clerk, or whenever it is the clerk's customary accounting practice to assess, deduct and collect the fee. The amount of the fee will be ten (10) percent of the income earned, or another amount as prescribed by the Judicial Conference of the United States and set by the director of the Administrative Office.

(3) If the submitted order does not conform to the provisions of subsections (a) and (b) of this rule and is not served in accordance with subsection (c), the clerk will not be liable if the interest is reduced or the principal invaded as a result of payment on a certain date.

LR 8001. NOTICE OF APPEAL; ELECTION TO HAVE APPEAL HEARD BY DISTRICT COURT INSTEAD OF BANKRUPTCY APPELLATE PANEL.

(a) Order being appealed. The appellant must attach to the notice of appeal filed in bankruptcy court a copy of the entered judgment, order or decree from which the appeal is taken.

(b) Bankruptcy appellate panel. In accordance with 28 U.S.C. § 158(b)(6), a bankruptcy appellate panel is authorized to hear and determine appeals from judgments, orders and decrees entered by bankruptcy judges from this district, subject to the limitations set forth in subsections (b) and (c) of this rule.

(1) The bankruptcy appellate panel may hear and determine only those appeals in which there has not been timely filed a "statement of election to have appeal heard by district court instead

of bankruptcy appellate panel” in accordance with 28 U.S.C. § 158(c)(1) and Fed. R. Bankr. P. 8001(e).

(2) With leave of the bankruptcy appellate panel, the panel will hear appeals from interlocutory orders and decrees entered by bankruptcy judges.

(3) The bankruptcy appellate panel may hear and determine appeals from judgments, orders and decrees entered by bankruptcy judges after July 10, 1984, and appeals transferred to the district court from the previous Ninth Circuit bankruptcy appellate panel by Section 115(b) of the Bankruptcy Amendments and Federal Judgeship Act of 1984, Pub. L. No. 98-353. The bankruptcy appellate panel may not hear or determine appeals from judgments, orders and decrees entered by bankruptcy judges between December 25, 1982, and July 10, 1984, under the Emergency Bankruptcy Rule of this district.

(c) Time for election.

(1) When a notice of appeal is filed with the clerk of the bankruptcy court, the appeal will be referred to the bankruptcy appellate panel, unless the appellant files at the time of filing the appeal a statement of election under 28 U.S.C. § 158(c)(1) in a separate writing under Fed. R. Bankr. P. 8001(e) that the appeal be heard by the district court. All parties to the appeal must be notified of the filing and reference within the time and in the manner provided for in LR 8004.

(2) The appealing party has thirty (30) days after service of the notice of appeal to file with the clerk of the bankruptcy appellate panel a written statement of election in accordance with 28 U.S.C. § 158(c)(1) and Fed. R. Bankr. P. 8001(e) that the appeal be heard by the district court. If the statement of election is not timely filed, the bankruptcy appellate panel will hear the appeal.

LR 8004. SERVICE OF NOTICE OF APPEAL.

(a) Service. Not later than three (3) days after filing a notice of appeal, the clerk of the bankruptcy court will serve a copy of the notice of appeal on all parties to the appeal. A copy of the notice of appeal will also be sent to the clerk of the bankruptcy appellate panel, unless the appellant has filed a “statement of election to have the appeal heard by the district court instead of the bankruptcy appellate panel” under 28 U.S.C. § 158(c)(1) and Fed. R. Bankr. P. 8001(e).

(b) Notification of bankruptcy appellate panel procedures. When the clerk of the bankruptcy appellate panel receives the notice of appeal, the clerk will notify the parties of the procedures and requirements relating to practice before the bankruptcy appellate panel.

LR 8006. DESIGNATION OF RECORD - APPEAL.

(a) Reproduction of record on appeal.

(1) In cases filed before January 1, 2002, which are on paper, if there is an appeal to the district court or other appellate court, the original pleadings will remain in the custody of the bankruptcy court, unless a bankruptcy judge has issued an order allowing the original case file to be

forwarded to the district court. Pleadings in cases filed on or after January 1, 2002, are in electronic format, and electronic copies can be made and forwarded as necessary.

(2) In addition to the excerpts of the record required by LR 8009, the district court or other appellate court may require that a copy of pleadings from the court's official case/adversary file, as designated, be transmitted to the district court or other appellate court. The clerk of the bankruptcy court will request copies from the party or parties designating the record on appeal. The copies must be tendered to the clerk in chronological order in conformity with LR 9004(c) within thirty (30) days of the clerk's request or within a shorter time if ordered by the district court or other appellate court. When the clerk receives the copies, the clerk will tender a receipt for all items designated. If any party fails to give the clerk copies of designated items before the deadline, the clerk may make copies at the designating party's expense.

(b) Designation and preparation of reporter's and recorder's transcripts.

(1) When designating transcripts on appeal, the party filing the notice of appeal, or other moving party, must specify the date(s), time(s), and type of hearing(s) and identify by name the court reporter or recorder.

(2) The party filing the Notice of Transcript must include in the notice:

(A) All transcripts listed in the designation of record, if any;

(B) Notation of the date of filing, if any; and

(C) The estimated time of filing, whether expedited or in the ordinary course of transcription.

(c) Procedure for requesting preparation of transcript. A transcript order form (AO 435) must be submitted to the clerk and must specify which portions of the designated transcript a particular court reporter or recorder will transcribe. If a court reporter was present, the clerk may arrange for the transcription of the record at the requesting party's expense.

LR 8007. TRANSMISSION OF RECORD ON APPEAL.

When the record, including any transcript, is complete for purposes of appeal, the clerk will transmit a certificate of record to the district court or other appellate court and will notify the parties of the date that the certificate of record was filed. The clerk will retain the record until the district court or other appellate court requests it.

LR 8009. BRIEFS AND APPENDIX.

(a) Excerpts of record. The parties must file excerpts of record to the district court in the same manner as required by Fed. R. Bankr. P. 8009(b) for appeals to the bankruptcy appellate panel. A party filing excerpts of record with the district court must file two (2) copies to be bound separately from the briefs. A party filing excerpts of record with the bankruptcy appellate panel must file the number of copies required by the Ninth Circuit Bankruptcy Appellate Panel.

(b) Transcripts. The excerpts of record must include the transcripts necessary for adequate review in light of the standard of review to be applied to the issues before the district court or other appellate court.

LR 8018. LOCAL RULES OF CIRCUIT JUDICIAL COUNCIL OR DISTRICT COURT.

Practice in bankruptcy appeals that may come before the district court will be governed by Part VIII of the Federal Rules of Bankruptcy Procedure, except as provided in LR 8070 or in rules that the district court adopts.

LR 8070. DISMISSAL OF APPEAL FOR NONPROSECUTION.

The court may dismiss the appeal, impose sanctions, or both under circumstances indicated below. This rule may be invoked on motion of a party or by the court on its own motion after notice to the parties:

(a) When an appellant fails to timely pay the filing and/or docket fee for the notice of appeal; file a designation of the reporter's transcript, designation of record, statement of issues and/or brief; file the excerpts of record; or otherwise comply with rules and orders governing the processing of bankruptcy appeals; or

(b) When an appellee fails to timely file a designation of reporter's transcript, designation of record or brief; or otherwise comply with rules and orders governing the processing of the bankruptcy appeals.

LR 9004. REQUIRED FORM OF FILED PAPERS.

(a) Form of papers.

(1) The papers filed with the bankruptcy court must be legibly printed on eight-and-one-half by eleven inch (8½" x 11") paper, with copies reproduced by any method resulting in clear copy. Unless the court orders otherwise, all printing and handwriting must be double-spaced.

(2) The format described above does not apply to:

(A) Exhibits, footnotes and quotations, the identification of counsel, caption, title of the court and the name of the case; and

(B) The title page, which must begin at least one-and-one-half inches (1½") from the top of the page.

(b) Print requirements. Printing that uses proportional fonts or equivalent (such as most computer fonts) must be at least twelve (12) points. Monospaced fonts (such as on a typewriter) may not have more than ten (10) characters per linear inch. All quotations longer than fifty (50) words must be indented. All pages of each pleading or other papers filed with the court (except exhibits)

must be numbered consecutively. All pages of each pleading or other papers filed with the court (including exhibits) must be printed only on one (1) side of the paper.

(c) Papers. Unless electronically filed, papers presented for filing, receiving or lodging with the clerk must be flat, unfolded, firmly bound together at the top and prepunched with two (2) holes, centered, two-and-three-quarters inches (2¾") apart, one-half (½) to five-eighths (⅝) of an inch from the top of the paper.

(d) Number of copies. The clerk maintains a list of copy requirements that specify the minimum number of copies to be submitted for filing. The clerk may revise the list of copy requirements and will reissue any revised list in full with a notation of the effective date of the revision. The list of copy requirement is available from the clerk and is posted on the court's website.

(e) Exhibits.

(1) All exhibits and copies of exhibits attached to papers must have indexing tabs at the bottom to show the exhibit number or letter. If exhibits are electronically filed, they must be separated by pages inserted and labeled with the exhibit number or letter. Filers must reduce oversize exhibits by xerographic or other similar means to eight-and-one-half by eleven inches (8½" x 11") unless the reduction would destroy legibility or authenticity. An oversize exhibit that cannot be reduced must be filed separately with a captioned cover sheet identifying the exhibit(s) and the document(s) to which it refers.

(2) If affidavits or declarations are used, they must be filed at the same time as the paper they refer to, but as separately captioned documents.

(f) Caption, title of court, name and number of case, description, and date and time of hearing.

(1) The top left corner of the first page of every paper presented for filing must show the name, Nevada or other state bar number, address, telephone number, fax number, and email address of the attorney and any associated attorney(s) appearing for the party filing the petition, or the name, address, and telephone number of a party appearing *pro se*.

(2) Below the identifying information described above, the remainder of the caption on the first page must look like this:

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

IN RE:	)	BK-N-95-00123-GWZ [applicable case number]
	)	CHAPTER 7 [applicable bankruptcy title]
JOHN DOE,)	
	)	Adversary Proceeding: BK-N-05-2345-GWZ
	)	[if applicable]
)	
	)	RESPONSE TO MOTION TO REJECT
	)	EXECUTORY CONTRACT [description]
Debtor(s))	

_____) Hearing Date:
) Hearing Time:
) Estimated Time for hearing:

(g) 11 U.S.C. § 362 pleadings/cover sheet. A properly completed § 362 information cover sheet, on colored paper (unless electronically filed), must be attached as Exhibit A to a motion for relief from the automatic stay under 11 U.S.C. § 362 or opposition to such a motion. Failure to comply with any of these provisions may result in sanctions, denial of the motion, or other adverse ruling.

(h) Facsimile or electronically produced signature. Unless otherwise ordered in a case, the clerk may accept papers for filing that bear a facsimile or electronically produced signature as the equivalent of an original signature. In accordance with the court’s electronic filing procedures described in LR 5005, the requirements of the court’s electronic filing procedures for safeguarding paper documents with original signatures must be followed. The procedures are available from the clerk or on the court’s website.

LR 9006. ORDERS SHORTENING TIME.

(a) Affidavit in support of motion for order shortening time. Unless the court permits otherwise, every motion for an order shortening time must be accompanied by an affidavit explaining why an expedited hearing is required along with a copy of the motion for which an expedited hearing is sought and an “Attorney Information Sheet For Proposed Order Shortening Time,” or similar statement indicating the following:

- (1) Whether opposing counsel and other interested parties and persons were consulted regarding the proposed order shortening time;
- (2) Whether opposing counsel or other persons consent to a hearing on shortened time;
- (3) The date counsel or other persons were consulted; and
- (4) How the consultation was accomplished or, if counsel or other persons were not consulted, how the moving party attempted to consult with that person or persons.

(b) Format of proposed order shortening time. Parties must include language in the proposed order shortening time so that the following can be easily inserted by the judge:

- (1) The date and time for the hearing on the motion;
- (2) The date for filing any objections to the entry of an order shortening time;
- (3) The date for filing any response to any objection; and
- (4) The date by which service of the order shortening time will be completed.

(c) Submission of proposed order shortening time. A proposed order shortening time must be electronically submitted to the court's electronic order program in a format prescribed by the court that will allow the electronic entry of dates for hearing and deadlines and the signing of the order by the judge.

(d) Service of order shortening time. If the motion is granted, the notice of the entry of the order shortening time together with a copy of the motion must be served in the most expeditious manner possible (e.g., email, facsimile, or hand delivery) within one (1) business day after the order is entered, unless the court orders otherwise.

LR 9009. LOCAL FORMS.

In addition to the official forms prescribed by the Judicial Conference of the United States, the court may provide additional forms, copies of which are available from the clerk and on the court's website.

LR 9010. ATTORNEYS - NOTICE OF APPEARANCE.

Any corporation, partnership, or other business entity, except when acting as a bankruptcy trustee for a corporation or partnership, must be represented by an attorney.

LR 9011. PRO SE PARTIES.

(a) Petition preparers.

(1) When a nonlawyer petition preparer is alleged to be in violation of 11 U.S.C. § 110(b) through (g), the court will find the facts and, if warranted, impose the fines set forth in those provisions.

(2) When the fees charged by a nonlawyer petition preparer are alleged to be excessive, the court will find the facts and, if warranted, disallow the excess fee and order it turned over to the bankruptcy trustee or the debtor as warranted by the facts of the case.

(b) Injunctions against petition preparers under 11 U.S.C. § 110(j).

(1) An action seeking an injunction under 11 U.S.C. § 110(j) must be brought in bankruptcy court.

(2) The bankruptcy court will find the facts and order an injunction if warranted.

(3) The bankruptcy court will award a successful plaintiff its fees and costs in bringing an action under 11 U.S.C. § 110(j)(3).

(c) Certification of facts to the district court under 11 U.S.C. § 110(i).

(1) A certification of facts proceeding under 11 U.S.C. § 110(i) starts in bankruptcy court on a motion by the debtor, the trustee, a creditor, or on the court's own motion. The court must:

- (A) Give notice to the accused preparer; and
- (B) Conduct a hearing before certifying facts to the district court.

(2) In its certification to the district court, the bankruptcy court will include:

- (A) Findings of fact it made during the bankruptcy proceeding;
- (B) The transcript and the record in the proceeding;
- (C) The court's finding of the debtor's actual damages under 11 U.S.C. § 110(i)(1)(A);
- (D) The court's finding as to whether the greater sum for inclusion in the penalty under 11 U.S.C. § 110(i)(1)(B) is \$2,000 or twice the amount paid by the debtor to the preparer; and
- (E) The court's finding as to the amount of the movant's reasonable attorney's fees and costs in connection with the certification proceedings.

(3) When it issues its decision and certifies facts to the district court, the bankruptcy court will also advise the prevailing party in the bankruptcy proceeding that it should file a motion in the district court for imposition of further sanctions under 11 U.S.C. § 110(i).

(4) When the certification of facts is before the district court:

- (A) No in-person hearing is required unless the court directs otherwise;
- (B) At the hearing, no new evidence will be received, and the hearing will be on the record only;
- (C) Only the affected parties will be allowed to submit briefs;
- (D) The bankruptcy court's findings of fact will be reviewed under the abuse of discretion standard; and
- (E) The bankruptcy court's conclusions of law will be reviewed de novo.

(d) Petition preparer guidelines. The United States trustee may issue guidelines in connection with the provisions of 11 U.S.C. § 110 setting forth positions that the trustee will generally follow in relation to petition preparers. The trustee may revise the guidelines, and when they are revised, they will be reissued in full with a notation of the effective date of the revision. Copies of the guidelines will be available from the United States trustee.

LR 9014. MOTION PRACTICE AND CONTESTED MATTERS - BRIEFS AND MEMORANDA OF LAW.

(a) Hearings and court calendars.

(1) Unless the court directs otherwise, all hearings (including motions in adversary proceedings, objections and other matters for which a hearing is necessary) must be set by counsel or persons acting *pro se* on the calendar of the judge to whom the case is assigned. The court may set any matter for hearing whether or not a hearing is required by statute or rules.

(2) Each judge will maintain a motion calendar and may adopt specific court procedures, which will be posted on the court's website. The time and dates of each judge's calendar and respective procedures may be obtained from the clerk or from the website.

(3) The judge may deem the first date set for the hearing to be a status and scheduling hearing if the judge determines that further evidence must be taken to resolve a material factual dispute. Unless the court orders otherwise or for good cause, live testimony will not be presented at the first date set for hearing. The judge may order a further hearing at which oral evidence and exhibits will be received, or may order that all evidence be presented by affidavit or declaration.

(b) Notice of hearing, and service of motion and notice.

(1) The movant must obtain a hearing date, and the notice of hearing must be filed with the motion and must, in addition to the requirements of Fed. R. Bankr. P. 2002(c), include the following:

- (A) The date, time, and place of the hearing;
- (B) A brief description of the relief sought;
- (C) A statement of the time for filing and serving objections;
- (D) This statement:

If you object to the relief requested, you *must* file a **WRITTEN** response to this pleading with the court. You *must* also serve your written response on the person who sent you this notice.

If you do not file a written response with the court, or if you do not serve your written response on the person who sent you this notice, then:

- The court may *refuse to allow you to speak* at the scheduled hearing; and
- The court may *rule against you* without formally calling the matter at the hearing.

(i) Individuals representing themselves are not exempt from this rule.

(ii) To ensure compliance with this rule, the court may deny any motion or request for an order that does not contain the above notice.

(F) If a hearing has been set by an order shortening time, service of the motion and the order shortening time will constitute notice of the hearing.

(2) Service of the motion and notice of it must be made in accordance with these rules and the Federal Rules of Bankruptcy Procedure and must be made within two (2) business days of filing the motion.

(A) The proof of service must show the date and manner of service and the name of the person served. Proof of service may be by written acknowledgment of service or certificate of the person who made service. The court may decline to take action on any papers until proper proof of service is filed. An acknowledgment or certificate of service, if any, must be attached at the end of the paper presented for filing. The notice and accompanying proof of service must be filed not more than five (5) business days after the motion is filed.

(B) Failure to make the proof of service required by this rule does not affect the validity of the service. Unless material prejudice would result, the court may at any time allow the proof of service to be amended or supplied.

(C) Unless otherwise provided by statute, the Federal Rules of Bankruptcy Procedure, or the local rules, service must be completed so that all parties are given not less than twenty-five (25) days' notice of the hearing, unless the court shortens the time.

(c) Contents of motion; affidavits and declarations. See LR 7032 and LR 9017.

(1) The motion must state the facts on which it is based and must contain a legal memorandum. If factual issues are contested, the court will not grant the contested relief unless admissible evidence is offered in support of the relief requested.

(2) If affidavits or declarations are submitted, they must be filed separately, and they must reference the underlying motion or paper. Affidavits and declarations failing to comply substantially with all of the requirements of subsection (c) of this rule may be stricken in whole or in part on the request of an opposing party or on the court's initiative. Affidavits and declarations must be made under penalty of perjury and must:

(A) Identify the affiant, the party on whose behalf the affidavit is submitted, and the motion to which it pertains;

(B) Contain only nonhearsay factual evidentiary matter or expert opinion, conform as far as possible to the requirements of Fed. R. Civ. P. 56(e), and avoid mere general conclusions or arguments.

(C) Identify and authenticate documents and exhibits offered in support of the motion or opposition, unless the documents are already authenticated in the record or have been previously admitted into evidence by the court and are specifically referred to and identified in the motion or opposition; and

(D) If an appraisal, include a statement of the qualifications of the appraiser, and either be made under penalty of perjury or be included by reference into an affidavit or declaration of the appraiser.

(d) Opposition, response, and reply.

(1) Oppositions to a motion must be filed and service must be completed on the movant no later than fifteen (15) days after the motion is served except as provided by LR 3007(b) and LR 9006. If the hearing has been set on less than fifteen (15) days' notice, the opposition must be filed no later than five (5) business days before the hearing, unless the court orders otherwise. The opposition must set forth all relevant facts and any relevant legal authority. An opposition must be supported by affidavits or declarations that conform to the provisions of subsection (c) of this rule.

(2) Except as provided by LR 3007(b), LR 7056(c), and LR 9006, any reply memorandum may be filed and served so as to be received by the court and the opposing party no later than five (5) business days before the date set for hearing or within the time otherwise fixed by the court.

(3) Uncontroverted facts may be taken as true. If no response or opposition is filed within the time required by these rules, the matter will be deemed unopposed, the court may enter an order granting the relief requested in the motion without further notice and without a hearing, and no appearance need be made. At the time originally set for hearing unopposed matters, the court may on its own or at the request of any party in interest continue the matter for hearing, in which case an appearance on behalf of the movant will be required at the continued hearing.

(e) Limitation on length of briefs and points and authorities; requirement for index and table of authorities. Unless the court orders otherwise, prehearing and posthearing briefs and points and authorities in support of, or in response to, motions are limited to twenty (20) pages including the motion but excluding exhibits. Reply briefs and points and authorities are limited to fifteen (15) pages, excluding exhibits. Where the court enters an order permitting a longer brief or points and authorities, the papers must include an index, table of contents, and table of authorities.

(f) Stipulations.

(1) Stipulations of counsel relating to proceedings before the court must be in writing, signed by the parties to the stipulation, and served on all other parties who have appeared.

(2) Stipulations between the parties relating to proceedings before the court, except stipulations pursuant to Fed. R. Bankr. P. 7029, are not effective until approved by the court and entered on the court's docket.

(3) A dispositive stipulation will be treated as a motion unless the stipulation is approved in writing by all counsel who have appeared for the parties and any party appearing *pro se*.

(4) Whenever any written stipulation contains a provision for continuing a hearing or a provision for vacating a pending hearing, a separate Notice of Continuance of Hearing or Notice Vacating Hearing must be clearly set forth in the caption. Any Notice of Continuance of Hearing must contain the previous hearing date and time and the new date and time. Any Notice Vacating Hearing must contain the vacated date and time.

LR 9015. JURY TRIALS.

(a) Designation to conduct jury trials. The bankruptcy judges of this district are designated to exercise all jurisdiction in civil jury cases under 28 U.S.C. § 157(e). Consent of the parties may be made in writing or orally on the record and, unless the court orders otherwise, must be given at least thirty (30) days before the date first set for trial.

(b) Demand for jury trial. Fed. R. Civ. P. 38 applies in adversary proceedings where there is a right to trial by jury.

(c) Form of demand. A demand for a jury trial must appear immediately following the title of the complaint or answer containing the demand, or in another document as may be permitted by Fed. R. Civ. P. 38(b). Any notation on an adversary proceeding cover sheet filed under LR 7003 concerning whether a jury trial is, or is not, demanded does not constitute a demand for a jury trial under these local rules.

(d) Procedure. In any proceeding in which a demand for jury trial is made, the court will, on a motion of one (1) of the parties or on the court's own motion, determine whether the demand was timely made and whether the demanding party has a right to a jury trial. Even if all the parties have consented to a jury trial, the court may, on its own motion, determine that there is no right to a jury trial in a proceeding.

(e) Consent and withdrawal. If the court determines that the demand was timely made and the party has a right to a jury trial, and if all parties have not filed a written consent to a jury trial, the bankruptcy judge will preside over all pretrial proceedings. When the proceeding is ready to be tried by a jury, the court will certify that fact to the district court, and further certify that the parties have not consented to a jury trial in the bankruptcy court. When the certification has been made, reference of the proceeding will be automatically withdrawn and the matter will be assigned to a district court judge.

(f) Nonjury determination. If the court determines that a jury demand was not timely made, or the demanding party is not entitled to a jury trial, the proceeding will be heard as a nonjury proceeding before the court.

(g) Certification to United States District Court. If, on timely motion of a party or on the court's own motion, the court determines that a claim is a personal injury tort or wrongful death claim requiring trial by a district court judge, the proceeding will be certified to the district court based on that fact in accordance with 28 U.S.C. § 157(b)(5).

LR 9016. SERVICE OF SUBPOENA.

When attendance at an examination in accordance with Fed. R. Bankr. P. 2004, or when the production of documents is required in connection with such an examination, the subpoena may be served on a party who has appeared in the bankruptcy case through any method of service appropriate for service of a summons under Fed. R. Bankr. P. 7004. When the party has appeared through counsel, service on counsel will constitute service on the party.

LR 9017. USE OF ALTERNATE DIRECT TESTIMONY AND EXHIBITS AT TRIALS.

(a) Purpose. The purpose of this procedure is to facilitate pretrial preparation and to streamline the introduction of direct testimony at trials of adversary proceedings and hearings on contested matters. This procedure is known as the “alternate direct testimony procedure.” Counsel are encouraged to use the alternate direct testimony procedure whenever possible.

(b) Stipulation for use. If all parties stipulate and the court approves, or if the court orders it, the alternate direct testimony procedure may be used in all trials of adversary proceedings or contested matters. The stipulation must be filed with the court no later than the time of the pretrial conference required by LR 7016 and 7026.

(c) Preparation of direct testimony and exhibits. Unless the court orders otherwise, each attorney must prepare a written declaration or affidavit of the direct testimony of each witness to be called, except hostile or adverse witnesses. The declaration or affidavit must be executed by the witness under penalty of perjury. Each statement of fact or opinion must be set forth in separate sequentially numbered paragraphs and must contain only matters that are admissible under the Federal Rules of Evidence. Declarations and affidavits must conform to the provisions of LR 9014(c).

(d) Submission of declarations, exhibits, and objections. Unless the court orders otherwise, copies of all declarations of witnesses and exhibits that are intended to be presented at trial or at the hearing on a contested matter must be furnished to opposing counsel and lodged with the court as follows:

(1) The plaintiff or movant must submit to opposing counsel all declarations and exhibits in its case in chief not less than ten (10) business days before the trial or the hearing on the contested matter;

(2) The defendant or respondent must submit all declarations and exhibits in its case five (5) business days before the trial or the hearing on the contested matter;

(3) Two (2) business days before trial or the hearing on a contested matter each party must lodge with the courtroom deputy clerk of the judge to whom the matter is assigned, one (1) copy of all declarations and exhibits that the party intends to present at trial, and an original and one (1) copy of that party’s written objections to the admission of any of the declarations or exhibits of an opposing party. Copies of exhibits lodged with the clerk must be premarked by counsel, and must be accompanied by a cover sheet index containing a brief description of each exhibit; and

(4) Unless otherwise stipulated by the parties with approval of the court, the declarants must be made available for cross-examination at the trial.

(e) Use of live testimony. All cross-examination, rebuttal, and surrebuttal must be by live testimony unless stipulated by the parties and approved by the court. Notwithstanding the provisions of this rule, the court, in its discretion, may allow the live direct examination of any witness.

LR 9018. SECRET, CONFIDENTIAL, SCANDALOUS, OR DEFAMATORY MATTER.

(a) Motion to file under seal. A motion to file documents under seal (but not the documents themselves) must be filed electronically, unless prohibited by law or unless the filing is exempt or excepted from the requirement of electronic filing. If the motion itself contains confidential information, the movant must serve and file a redacted version clearly marked as such, and submit an unredacted version in camera. If the court requests, the movant must deliver paper copies of the documents proposed to be filed under seal to the presiding judge for *in camera* review.

(b) Order. The court will review the *in camera* submission and enter an appropriate order directing that all or part of it be filed under seal, be made part of the official public file, or be permitted to be withdrawn. If the court orders the document sealed, the moving party must submit an order in compliance to LR 9021, which will be docketed by the clerk. The court order authorizing filing documents under seal will be filed electronically, unless prohibited by law.

(c) Form. If the court grants the motion, in whole or in part, the movant must deliver to the clerk of the court a paper copy of the documents to be filed under seal. Papers submitted for the court's *in camera* inspection must be accompanied by a captioned cover sheet complying with LR 9004, indicating that they are being submitted *in camera*. Counsel must provide to the court an envelope large enough for the *in camera* papers to be sealed without being folded. A copy of the sealing order on paper must be attached to the sealed documents.

(d) Filing sealed documents. Unless the court orders otherwise, the clerk will file any documents ordered to be filed under seal on paper and not electronically.

LR 9019. SETTLEMENTS AND AGREED ORDERS; ALTERNATIVE DISPUTE RESOLUTION.

(a) Settlement conferences or other alternative dispute resolution.

(1) On its own initiative or at the request of any party in interest, the court may at any time order that a contested matter or adversary proceeding be set for settlement conference or other alternative method of dispute resolution.

(2) The court may by separate order stay the contested matter or adversary proceeding in whole or in part for a specified time or until further order of the court to facilitate the settlement process. If a settlement conference is held, there is no stay or postponement of any calendared matter without prior order of the court.

(b) Notice to court of outcome of settlement conference or other alternative dispute resolution. The plaintiff or moving party must promptly advise the court in writing when any adversary proceeding or contested matter is settled or when the parties have failed to reach a settlement.

(c) Notice of compromise. Unless the court orders otherwise, when any party gives notice of a motion for the approval of a compromise, that party must either include in the notice a summary of the essential terms of the compromise or serve a copy of the compromise with the notice.

LR 9021. ENTRY OF JUDGMENTS AND ORDERS.

(a) Preparation of entry of orders and judgments. Unless otherwise ordered, the attorney for the prevailing party must prepare all proposed findings of fact, conclusions of law, judgments, and orders, formatted in accordance with the court's electronic filing procedures described in LR 5005.

(b) Transmission; approval and disapproval; objections.

(1) Counsel preparing documents listed in subsection (a) above must transmit them by hand delivery, facsimile, email, overnight delivery, or U.S. mail to all counsel or unrepresented parties who appeared at the hearing or filed and served objections, and to any trustee appointed in the case.

(2) Unless the court orders otherwise, parties will have three (3) days from receiving proposed orders to communicate their approval or disapproval to the transmitting counsel.

(A) If disapproved, the disapproving party will have until five (5) days from receiving the document to serve and file with the court a detailed statement of objections and an alternate proposal for the document.

(B) Any response to the objection must be filed within five (5) days after the objection is lodged.

(3) Approval indicates only that the document accurately reflects the ruling of the court, and does not constitute agreement with the ruling or waiver of any rights of appeal.

(c) Certification language.

(1) Documents listed in subsection (a) above must be submitted to the court with the following certification from the submitting counsel:

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

The court has waived the requirement of approval under LR 9021.

No parties appeared or filed written objections, and there is no trustee appointed in the case.

I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

(2) No language other than "approved" or "disapproved" may appear above opposing counsel's signature; and

(3) Unless the court orders otherwise, “opposing counsel” means any attorney who appeared at the hearing regarding the matter that is the subject of the order or who filed objections.

(4) Variation from the certification language indicated in paragraph (c)(1) may be cause for returning the draft order unsigned by the court.

(d) Orders on applications or motions for which no hearing is held, and no objections are received. If a party requests an order on an application or motion, but did not schedule a hearing on the motion or application, relying instead on the absence of any objection to the requested relief, the party must also submit, with the proposed order, a declaration or affidavit containing the following:

(1) A summary of why a hearing is not necessary in the matter;

(2) A statement of how and when notice of the application or motion was served, and a list of those entities served; and

(3) A statement that the declarant or affiant has not received and knows of no objections to the relief requested as of the time the proposed order was submitted.

LR 9022. NOTICE OF JUDGMENT OR ORDER.

(a) Notice by the clerk. Immediately after the entry of a judgment or order prepared by a bankruptcy judge or by the clerk under the delegation of LR 5075, the clerk will:

(1) Transmit a Notice of Electronic Filing to registered e-filers. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022;

(2) Give notice on paper to a person who is exempt or excepted from electronic filing in accordance with the Federal Rules of Bankruptcy Procedure.

(b) Notice by an attorney or *pro se* party. Unless the court orders otherwise, any attorney or *pro se* party who prepares and submits a judgment or order to the court must, upon entry of the order or judgment, immediately serve notice of entry of the order on the opposing counsel as defined in LR 9021(a)(3) or on other entities as the court directs. The notice of entry must include a copy of the document and the date it was entered.

Part IIIB – Interim Local Rules of Bankruptcy Practice

August, 2005 and October, 2005
**PROPOSED AMENDMENTS TO THE
FEDERAL RULES OF BANKRUPTCY PROCEDURE
ADOPTED AS LOCAL RULES
effective October 17, 2005
by General Order 110**

Interim LR 1006. FILING FEE.

(a) **GENERAL REQUIREMENT.** Every petition shall be accompanied by the filing fee except as provided in subdivisions (b) and (c) of this rule. For the purpose of this rule, “filing fee” means the filing fee prescribed by 28 U.S.C. § 1930(a)(1)-(a)(5) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon the commencement of a case under the Code.

(b) **PAYMENT OF FILING FEE IN INSTALLMENTS.**

(1) *Application for ~~Permission~~ to Pay Filing Fee in Installments.* A voluntary petition by an individual shall be accepted for filing if accompanied by the debtor’s signed application prepared as prescribed by the appropriate Official Form, stating that the debtor is unable to pay the filing fee except in installments. ~~The application shall state the proposed terms of the installment payments and that the applicant has neither paid any money nor transferred any property to an attorney for services in connection with the case.~~

* * * * *

(3) *Postponement of Attorney’s Fees.* ~~The filing fee~~ All installments of the filing fee must be paid in full before the debtor or chapter 13 trustee may make further payments ~~pay an~~ to an attorney or any other person who renders services to the debtor in connection with the case.

(c) **WAIVER OF FILING FEE.** A voluntary chapter 7 petition filed by an individual shall be accepted for filing if accompanied by the debtor’s application requesting a waiver under 28 U.S.C. § 1930(f), prepared as prescribed by the appropriate Official Form.

Rule 1006 COMMITTEE NOTE

Subdivision (a) is amended to include a reference to new subdivision (c), which deals with fee waivers under 28 U.S.C. § 1930(f), which was added in 2005.

Subdivision (b)(1) is amended to delete the sentence requiring a disclosure that the debtor has not paid an attorney or other person in connection with the case. Inability to pay the filing fee in installments is one of the requirements for a fee waiver under the 2005 revisions to 28 U.S.C. § 1930(f). If the attorney payment prohibition were retained, payment of an attorney’s fee would render many debtors ineligible for installment payments and thus enhance their eligibility for the fee waiver. The deletion of this prohibition from the rule, which was not statutorily required, ensures that

debtors who have the financial ability to pay the fee in installments will do so rather than request a waiver.

Subdivision (b)(3) is amended in conformance with the changes to (b)(1) to reflect the 2005 amendments. The change is meant to clarify that (b)(3) refers to payments made after the debtor has filed the bankruptcy case and after the debtor has received permission to pay the fee in installments. Otherwise, the subdivision may conflict with intent and effect of the amendments to subdivision (b)(1).

Interim LR 1007. LISTS, SCHEDULES, AND STATEMENTS, AND OTHER DOCUMENTS; TIME LIMITS.

(a) LIST OF CREDITORS AND EQUITY SECURITY HOLDERS, AND CORPORATE OWNERSHIP STATEMENT.

* * * * *

~~(4)~~ Chapter 15 Case. Unless the court orders otherwise, a foreign representative filing a petition for recognition under chapter 15 shall file with the petition a list containing the name and address of all administrators in foreign proceedings of the debtor, all parties to any litigation in which the debtor is a party and that is pending in the United States at the time of the filing of the petition, and all entities against whom provisional relief is being sought under § 1519 of the Code.

~~(4)~~ (5) Extension of Time. Any extension of time for the filing of lists required by this subdivision may be granted only on motion for cause shown and on notice to the United States trustee and to any trustee, committee elected pursuant to under § 705 or appointed pursuant to under § 1102 of the Code, or other party as the court may direct.

(b) SCHEDULES, AND STATEMENTS, , AND OTHER DOCUMENTS REQUIRED.

(1) Except in a chapter 9 municipality case, the debtor, unless the court orders otherwise, shall file the following schedules, statements, and other documents, prepared as prescribed by the appropriate Official Forms, if any:

(A) schedules of assets and liabilities; ;

(B) a schedule of current income and expenditures; ;

(C) a schedule of executory contracts and unexpired leases, ~~and~~ ;

(D) a statement of financial affairs, ~~prepared as prescribed by the appropriate Official Forms ;~~

(E) copies of all payment advices or other evidence of payment, if any, with all but the last four digits of the debtor's social security number redacted, received by the debtor from an employer within 60 days before the filing of the petition; and

(F) a record of any interest that the debtor has in an account or program of the type specified in § 521(c) of the Code.

(2) An individual debtor in a chapter 7 case shall file a statement of intention as required by § ~~521(a)~~ 521(2) of the Code, prepared as prescribed by the appropriate Official Form. A copy of the statement of intention shall be served on the trustee and the creditors named in the statement on or before the filing of the statement.

(3) Unless the United States trustee has determined that the credit counseling requirement of § 109 does not apply in the district, an individual debtor must file the certificate and debt repayment plan, if any, required by § 521(b), a certification under § 109(h)(3), or a request for a determination by the court under § 109(h)(4).

(4) Unless § 707(b)(2)(D) applies, an individual debtor in a chapter 7 case with primarily consumer debts shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the debtor has current monthly income greater than the applicable median family income for the applicable state and household size, the calculations in accordance with § 707(b), prepared as prescribed by the appropriate Official Form.

(5) An individual debtor in a chapter 11 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form.

(6) A debtor in a chapter 13 case shall file a statement of current monthly income, prepared as prescribed by the appropriate Official Form, and, if the debtor has current monthly income greater than the median family income for the applicable state and family size, a calculation of disposable income in accordance with § 1325(b)(3), prepared as prescribed by the appropriate Official Form.

(7) An individual debtor in a chapter 7 or chapter 13 case shall file a statement regarding completion of a course in personal financial management, prepared as prescribed by the appropriate Official Form.

(8) If an individual debtor in a chapter 11, 12, or 13 case has claimed an exemption under § 522(b)(3)(A) in an amount in excess of the amount set out in § 522(q)(1) in property of the kind described in § 522(p)(1), the debtor shall file a statement as to whether there is pending a proceeding in which the debtor may be found guilty of a felony of a kind described in § 522(q)(1)(A) or found liable for a debt of the kind described in § 522(q)(1)(B).

(c) TIME LIMITS. In a voluntary case, the schedules, ~~and~~ statements, and other documents required by subdivision (b)(1), (4), (5), and (6), ~~other than the statement of intention,~~ shall be filed with the petition, or within 15 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), and (h) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, ~~and~~ statements, and other documents required by subdivision (b)(1) ~~other than the statement of intention,~~ shall be filed by the debtor within 15 days of the entry of the order for relief. ~~The documents required by subdivision (b)(3) shall be filed with the petition in a voluntary case. The statement required by subdivision (b)(7) shall be filed by the debtor within 45 days after the first date set for the meeting of creditors under § 341 of the Code in a chapter 7 case, and no later than the last payment made by the debtor as required by the plan or the filing of a motion for entry of a discharge under § 1328(b) in a chapter 13 case. The statement required by subdivision (b)(8) shall be filed by the debtor not earlier~~

than the date of the last payment made under the plan or the date of the filing of a motion for entry of a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b). Lists, schedules, and statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3) of the Code, any ~~Any~~ extension of time for the filing of the schedules, ~~and~~ statements, ~~and~~ other documents may be granted only on motion for cause shown and on notice to the United States trustee and to any committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

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Rule 1007 COMMITTEE NOTE

The title of this rule is expanded to refer to “documents” in conformity with the 2005 amendments to § 521 and related provisions of the Bankruptcy Code that include a wider range of documentary requirements.

Subdivision (a) is amended to require that any foreign representative filing a petition for recognition to commence a case under chapter 15, which was added to the Code in 2005, file a list of entities with whom the debtor is engaged in litigation in the United States. The foreign representative filing the petition for recognition also must list any entities against whom provisional relief is being sought as well as all administrators in foreign proceedings of the debtor. This should ensure that the entities most interested in the case, or their representatives, will receive notice of the petition under Rule 2002(q).

Subdivision (b)(1) addresses schedules, statements, and other documents that the debtor must file unless the court orders otherwise and other than in a case under Chapter 9. This subdivision is amended to include documentary requirements added by the 2005 amendments to § 521 that apply to the same group of debtors and have the same time limits as the existing requirements of (b)(1). Consistent with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2921 (2002), the payment advices should be redacted before they are filed.

Subdivision (b)(2) is amended to conform the renumbering of the subsections of § 521.

Subdivisions (b)(3) through (b)(7) are new. They implement the 2005 amendments to the Bankruptcy Code. Subdivision (b)(3) provides a procedure for filing documents relating to the nonprofit credit counseling requirement provided by the 2005 amendments to § 109.

Subdivision (b)(4) addresses the filing of information about current monthly income, as defined in § 101, for certain chapter 7 debtors and, if required, additional calculations of expenses required by the 2005 revisions to § 707(b).

Subdivision (b)(5) addresses the filing of information about current monthly income, as defined in § 101, for individual chapter 11 debtors. The 2005 amendments to § 1129(a)(15) condition plan confirmation for individual debtors on the commitment of disposable income as defined in § 1325(b)(2), which is based on current monthly income.

Subdivision (b)(6) addresses the filing of information about current monthly income, as defined in § 101, for chapter 13 debtors and, if required, additional calculations of expenses. These changes are necessary because the 2005 amendments to § 1325 require that determinations of disposable income start with current monthly income.

Subdivision (b)(7) reflects the 2005 amendments to §§ 727 and 1328 that condition the receipt of a discharge on the completion of a personal financial management course, with certain exceptions.

Subdivision (b)(8) and subdivision (c) is amended to require an individual debtor in a case under chapter 11, 12, and 13 to file a statement that there are no reasonable grounds to believe that the restrictions on a homestead exemption as set out in § 522(q) of the Code are applicable. Sections 1141(d)(5)(C), 1228(f), and 1328(h) each provide that the court shall not enter a discharge order unless it finds that there is no reasonable cause to believe that § 522(q) applies. Requiring the debtor to submit a statement to that effect in cases under chapters 11, 12, and 13 in which an exemption is claimed in excess of the amount allowed under § 522(q)(1) provides the court with a basis to conclude, in the absence of any contrary information, that § 522(q) does not apply. Creditors receive notice under Rule 2002(f)(11) of the time to request postponement of the entry of the discharge so that they can challenge the debtor's assertions in the Rule 1007(b)(8) statement in appropriate cases.

Subdivision (c) is amended to include time limits for the filing requirements added to subdivision (b) due to the 2005 amendments to the Bankruptcy Code, and to make conforming amendments. Separate time limits are provided for the documentation of credit counseling and for the statement of the completion of the financial management course.

Subdivision (c) of the rule is also amended to recognize the limitation on the extension of time to file schedules and statements when the debtor is a small business debtor. Section 1116(3), added to the Bankruptcy Code in 2005, establishes a specific standard for courts to apply in the event that the debtor in possession or the trustee seeks an extension for filing these forms for a period beyond 30 days after the order for relief.

**Interim LR 1009. AMENDMENTS OF VOLUNTARY PETITIONS, LISTS,
SCHEDULES AND STATEMENTS.**

* * * * *

(b) STATEMENT OF INTENTION. The statement of intention may be amended by the debtor at any time before the expiration of the period provided in § ~~521(a)~~ ~~521(2)(B)~~ of the Code. The debtor shall give notice of the amendment to the trustee and to any entity affected thereby.

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Rule 1009 COMMITTEE NOTE

Subdivision (b) is amended to conform to the 2005 amendments to § 521 of the Code.

Interim LR 1010.

**SERVICE OF INVOLUNTARY PETITION AND SUMMONS;
~~PETITION COMMENCING ANCILLARY CASE FOR~~
RECOGNITION OF A FOREIGN NONMAIN PROCEEDING.**

On the filing of an involuntary petition or a petition ~~commencing a case ancillary to~~ for recognition of a foreign nonmain proceeding the clerk shall forthwith issue a summons for service. When an involuntary petition is filed, service shall be made on the debtor. When a petition ~~commencing an ancillary case~~ for recognition of a foreign nonmain proceeding is filed, service shall be made on the ~~parties against whom relief is sought pursuant to § 304(b)~~ debtor, any entity against whom provisional relief is sought under § 1519 of the Code, and on any other parties as the court may direct. The summons shall be served with a copy of the petition in the manner provided for service of a summons and complaint by Rule 7004(a) or (b). If service cannot be so made, the court may order that the summons and petition be served by mailing copies to the party's last known address, and by at least one publication in a manner and form directed by the court. The summons and petition may be served on the party anywhere. Rule 7004 (e) and Rule 4 (l) F.R.Civ.P. apply when service is made or attempted under this rule.

Rule 1010 COMMITTEE NOTE

This rule is amended to implement the 2005 amendments to the Bankruptcy Code, which repealed § 304 of the Code and replaced it with chapter 15 governing ancillary and other cross-border cases. Under chapter 15, a foreign representative commences a case by filing a petition for recognition of a pending foreign nonmain proceeding. The amendment requires service of the summons and petition on the debtor and any entity against whom the representative is seeking provisional relief. Until the court enters a recognition order under § 1517, no stay is in effect unless the court enters some form of provisional relief under § 1519. Thus, there is no need to serve all creditors of the debtor upon filing the petition for recognition. Only those entities against whom specific provisional relief is sought need to be served. The court may direct that service be made on additional entities as appropriate.

This rule does not apply to a petition for recognition of a foreign main proceeding.

Interim LR 1011.

**RESPONSIVE PLEADING OR MOTION IN INVOLUNTARY AND
ANCILLARY CROSS-BORDER CASES.**

(a) WHO MAY CONTEST PETITION. The debtor named in an involuntary petition or a party in interest to a petition ~~commencing a case ancillary to a~~ for recognition of a foreign proceeding may contest the petition. In the case of a petition against a partnership under Rule 1004, a nonpetitioning general partner, or a person who is alleged to be a general partner but denies the allegation, may contest the petition.

* * * * *

Rule 1011 COMMITTEE NOTE

The rule is amended to reflect the 2005 amendments to the Bankruptcy Code, which repealed § 304 of the Code and added chapter 15. Section 304 covered cases ancillary to foreign proceedings,

while chapter 15 of the Code governs ancillary and other cross-border cases and introduces the concept of a petition for recognition of a foreign proceeding.

Interim LR 1017. DISMISSAL OR CONVERSION OF CASE; SUSPENSION.

* * * * *

(e) DISMISSAL OF AN INDIVIDUAL DEBTOR'S CHAPTER 7 CASE OR CONVERSION TO A CASE UNDER CHAPTER 11 OR 13 FOR SUBSTANTIAL ABUSE. The court may dismiss or, with the debtor's consent, convert an individual debtor's case for ~~substantial~~ abuse under § 707(b) only on motion by the United States trustee or on the court's own motion and after a hearing on notice to the debtor, the trustee, the United States trustee, and any other entities as the court directs.

(1) Except as otherwise provided in § 704(b)(2), a ~~A~~ motion to dismiss a case for substantial abuse under § 707(b) or (c) may be filed by the United States trustee only within 60 days after the first date set for the meeting of creditors under § 341(a), unless, on request filed by the United States trustee before the time has expired, the court for cause extends the time for filing the motion to dismiss. The United States trustee party filing the motion shall set forth in the motion all matters to be considered submitted to the court for its consideration at the hearing. A motion to dismiss under § 707(b)(1) and (3) shall state with particularity the circumstances alleged to constitute abuse.

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Rule 1017 COMMITTEE NOTE

Subdivisions (e) and (e)(1) are amended to implement the 2005 revisions to § 707 of the Code. These revisions permit conversion of a chapter 7 case to a case under chapter 11 or 13, change the basis for dismissal or conversion from "substantial abuse" to "abuse," authorize parties other than the United States trustee to bring motions under § 707(b) under certain circumstances, and add § 707(c) to create an explicit ground for dismissal based on the request of a victim of a crime of violence or drug trafficking. The conforming amendments to subdivision (e) preserve the time limits already in place for § 707(b) motions, except to the extent that § 704(b)(2) sets the deadline for the United States trustee to act. In contrast to the grounds for a motion to dismiss under § 707(b)(2), which are quite specific, the grounds under § 707(b)(1) and (3) are very general. Subdivision (e) therefore requires that motions to dismiss under §§ 707(b)(1) and (3) state with particularity the circumstances alleged to constitute abuse to enable the debtor to respond.

Interim LR 1019.

**CONVERSION OF CHAPTER 11 REORGANIZATION CASE,
CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT CASE,
OR CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE TO
A CHAPTER 7 LIQUIDATION CASE.**

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(2) NEW FILING PERIODS. A new time period for filing ~~claims, a motion under § 707(b) or (c), a claim,~~ a complaint objecting to discharge, or a complaint to obtain a determination of dischargeability of any debt shall commence ~~under pursuant to~~ Rules 1017, 3002, 4004, or 4007, provided that a new time period shall not commence if a chapter 7 case had been converted to a chapter 11, 12, or 13 case and thereafter reconverted to a chapter 7 case and the time for filing ~~claims, a motion under § 707(b) or (c), a claim,~~ a complaint objecting to discharge, or a complaint to obtain a determination of the dischargeability of any debt, or any extension thereof, expired in the original chapter 7 case.

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Rule 1019 COMMITTEE NOTE

Subdivision (2) is amended to provide a new filing period for motions under § 707(b) and (c) of the Code when a case is converted to chapter 7.

Interim LR 1020.

**~~ELECTION TO BE CONSIDERED A SMALL BUSINESS IN A
CHAPTER 11 REORGANIZATION CASE~~ SMALL BUSINESS
CHAPTER 11 REORGANIZATION CASE.**

~~In a chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election not later than 60 days after the date of the order for relief.~~

(a) SMALL BUSINESS DEBTOR DESIGNATION. In a voluntary chapter 11 case, the debtor shall state in the petition whether the debtor is a small business debtor. In an involuntary chapter 11 case, the debtor shall file within 15 days after entry of the order for relief a statement as to whether the debtor is a small business debtor. Except as provided in subdivision (c), the status of the case with respect to whether it is a small business case shall be in accordance with the debtor's statement under this subdivision, unless and until the court enters an order finding that the debtor's statement is incorrect.

(b) OBJECTING TO DESIGNATION. Except as provided in subdivision (c), the United States trustee or a party in interest may file an objection to the debtor's statement under subdivision (a) not later than 30 days after the conclusion of the meeting of creditors held under § 341(a) of the Code, or within 30 days after any amendment to the statement, whichever is later.

(c) APPOINTMENT OF COMMITTEE OF UNSECURED CREDITORS. If the United States trustee has appointed a committee of unsecured creditors under § 1102(a)(1), the case shall proceed as a small business case only if, and from the time when, the court enters an order determining that the committee has not been sufficiently active and representative to provide

effective oversight of the debtor and that the debtor satisfies all the other requirements for being a small business. A request for a determination under this subdivision may be filed by the United States trustee or a party in interest only within a reasonable time after the failure of the committee to be sufficiently active and representative. The debtor may file a request for a determination at any time as to whether the committee has been sufficiently active and representative.

(d) PROCEDURE FOR OBJECTION OR DETERMINATION. Any objection or request for a determination under this rule shall be governed by Rule 9014 and served on the debtor, the debtor's attorney, the United States trustee, the trustee, any committee appointed under § 1102 or its authorized agent, or, if no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and on such other entities as the court may direct.

Rule 1020 COMMITTEE NOTE

Under the Bankruptcy Code, as amended in 2005, there are no provisions permitting or requiring a small business debtor to elect to be treated as a small business. Therefore, there is no longer any need for a rule on elections to be considered a small business.

The 2005 amendments to the Code include several provisions relating to small business cases under chapter 11. Section 101 of the Code includes definitions of "small business debtor" and "small business case." The purpose of the new language in this rule is to provide a procedure for informing the parties, the United States trustee, and the court of whether the debtor is a small business debtor, and to provide procedures for resolving disputes regarding the proper characterization of the debtor. Because it is important to resolve such disputes early in the case, a time limit for objecting to the debtor's self-designation is imposed. Rule 9006(b)(1), which governs enlargement of time, is applicable to the time limits set forth in this rule.

An important factor in determining whether the debtor is a small business debtor is whether the United States trustee has appointed a committee of unsecured creditors under § 1102 of the Code, and whether such a committee is sufficiently active and representative. Subdivision (c), relating to the appointment and activity of a committee of unsecured creditors, is designed to be consistent with the Code's definition of "small business debtor."

Interim LR 1021. HEALTH CARE BUSINESS CASE.

(a) HEALTH CARE BUSINESS DESIGNATION. Unless the court orders otherwise, if a petition in a case under chapter 7, chapter 9, or chapter 11 states that the debtor is a health care business, the case shall proceed as a case in which the debtor is a health care business.

(b) MOTION. The United States trustee or a party in interest may file a motion for a determination as to whether the debtor is a health care business. The motion shall be transmitted to the United States trustee and served on the debtor, the trustee, any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct. The motion shall be governed by Rule 9014.

Rule 1021 COMMITTEE NOTE

Section 101(27A) of the Code, added in 2005, defines a health care business. This rule provides procedures for identifying the debtor as a health care business. The debtor in a voluntary case, or petitioning creditors in an involuntary case, will usually make the identification by checking the appropriate box on the petition. If a party in interest or the United States trustee disagrees with the determination by the debtor or the petitioning creditors as to whether the debtor is a health care business, this rule provides procedures for resolving the dispute.

Interim LR 2002.

NOTICES TO CREDITORS, EQUITY SECURITY HOLDERS, ADMINISTRATORS IN FOREIGN PROCEEDINGS, PERSONS AGAINST WHOM PROVISIONAL RELIEF IS SOUGHT IN ANCILLARY AND OTHER CROSS-BORDER CASES, UNITED STATES, AND UNITED STATES TRUSTEE.

(a) TWENTY-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivisions (h), (i), ~~and (4)~~ (l), (p), and (q) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees at least 20 days' notice by mail of:

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(b) TWENTY-FIVE-DAY NOTICES TO PARTIES IN INTEREST. Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, the trustee, all creditors and indenture trustees not less than 25 days notice by mail of (1) the time fixed for filing objections and the hearing to consider approval of a disclosure statement or, under § 1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary; and (2) the time fixed for filing objections and the hearing to consider confirmation of a chapter 9, chapter 11, or chapter 13 plan.

(c) CONTENT OF NOTICE.

(1) *Proposed Use, Sale, or Lease of Property.* Subject to Rule 6004 the notice of a proposed use, sale, or lease of property required by subdivision (a)(2) of this rule shall include the time and place of any public sale, the terms and conditions of any private sale and the time fixed for filing objections. The notice of a proposed use, sale, or lease of property, including real estate, is sufficient if it generally describes the property. The notice of a proposed sale or lease of personally identifiable information under § 363(b)(1)(A) or (B) of the Code shall state whether the sale is consistent with a policy prohibiting the transfer of the information.

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(f) OTHER NOTICES. Except as provided in subdivision (l) of this rule, the clerk, or some other person as the court may direct, shall give the debtor, all creditors, and indenture trustees notice by mail of: (1) the order for relief; (2) the dismissal or the conversion of the case to another chapter, or the suspension of proceedings under § 305; (3) the time allowed for filing claims pursuant to Rule 3002; (4) the time fixed for filing a complaint objecting to the debtor's discharge pursuant to § 727 of the Code as provided in Rule 4004; (5) the time fixed for filing a complaint to determine the

dischargeability of a debt pursuant to § 523 of the Code as provided in Rule 4007; (6) the waiver, denial, or revocation of a discharge as provided in Rule 4006; (7) entry of an order confirming a chapter 9, 11, or 12 plan; ~~and~~ (8) a summary of the trustee's final report in a chapter 7 case if the net proceeds realized exceed \$1,500; (9) a notice under Rule 5008 regarding the presumption of abuse; ~~and~~ (10) a statement under § 704(b)(1) as to whether the debtor's case would be presumed to be an abuse under § 707(b); and (11) the time to request a delay in the entry of the discharge under §§ 1141(d)(5)(C), 1228(f), and 1328(h). Notice of the time fixed for accepting or rejecting a plan pursuant to Rule 3017(c) shall be given in accordance with Rule 3017(d).

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(g) ADDRESSING NOTICES

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(2) Except as provided in § 342(f) of the Code, if a creditor or indenture trustee has not filed a request designating a mailing address under Rule 2002(g)(1), the notices shall be mailed to the address shown on the list of creditors or schedule of liabilities, whichever is filed later. If an equity security holder has not filed a request designating a mailing address under Rule 2002(g)(1), the notices shall be mailed to the address shown on the list of equity security holders.

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(p) NOTICE TO A FOREIGN CREDITOR.

(1) If, at the request of a party in interest or the United States trustee, or on its own initiative, the court finds that a notice mailed within the time prescribed by these rules would not be sufficient to give a creditor with a foreign address to which notices under these rules are mailed reasonable notice under the circumstances, the court may order that the notice be supplemented with notice by other means or that the time prescribed for the notice by mail be enlarged.

(2) Unless the court for cause orders otherwise, a creditor with a foreign address to which notices under this rule are mailed shall be given at least 30 days' notice of the time fixed for filing a proof of claim under Rule 3002(c) or Rule 3003(c).

(q) NOTICE OF PETITION FOR RECOGNITION OF FOREIGN PROCEEDING AND OF COURT'S INTENTION TO COMMUNICATE WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES.

(1) Notice of Petition for Recognition. The clerk, or some other person as the court may direct, shall forthwith give the debtor, all administrators in foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to any litigation in which the debtor is a party and that is pending in the United States at the time of the filing of the petition, and such other entities as the court may direct, at least 20 days' notice by mail of the hearing on the petition for recognition of a foreign proceeding. The notice shall state whether the petition seeks recognition as a foreign main proceeding or foreign nonmain proceeding.

(2) Notice of Court's Intention to Communicate with Foreign Courts and Foreign Representatives. The clerk, or some other person as the court may direct, shall give the debtor, all

administrators in foreign proceedings of the debtor, all entities against whom provisional relief is being sought under § 1519 of the Code, all parties to any litigation in which the debtor is a party and that is pending in the United States at the time of the filing of the petition, and such other entities as the court may direct, notice by mail of the court's intention to communicate with a foreign court or foreign representative as prescribed by Rule 5012.

Rule 2002 COMMITTEE NOTE

Subdivision (b) is amended to provide for 25 days' notice of the time for the court to make a final determination whether the plan in a small business case can serve as a disclosure statement. Conditional approval of a disclosure statement in a small business case is governed by Rule 3017.1 and does not require 25 days' notice. The court may consider this matter in a hearing combined with the confirmation hearing in a small business case.

Subdivision (c)(1) is amended to require that a trustee leasing or selling personally identifiable information under § 363(b)(1)(A) or (B) of the Code, as amended in 2005, include in the notice of the lease or sale transaction a statement as to whether the lease or sale is consistent with a policy prohibiting the transfer of the information.

Section 1514(d) of the Code, added in 2005, requires that such additional time as is reasonable under the circumstances be given to creditors with foreign addresses with respect to notices and the filing of a proof of claim. Thus, subdivision (p)(1) is added to the rule to give the court flexibility to direct that notice by other means shall supplement notice by mail, or to enlarge the notice period, for creditors with foreign addresses. If cause exists, such as likely delays in the delivery of mailed notices in particular locations, the court may order that notice also be given by email, facsimile, or private courier. Alternatively, the court may enlarge the notice period for a creditor with a foreign address. It is expected that in most situations involving foreign creditors, fairness will not require any additional notice or extension of the notice period. This rule recognizes that the court has discretion to establish procedures to determine, on its own initiative, whether relief under subdivision (p) is appropriate, but that the court is not required to establish such procedures and may decide to act only on request of a party in interest.

Subdivisions (f)(9) and (10) are new. They reflect the 2005 amendments to §§ 342(d) and 704(b) of the Bankruptcy Code. Section 342(d) requires the clerk to give notice to creditors shortly after the commencement of the case as to whether a presumption of abuse exists. Subdivision (f)(9) adds this notice to the list of notices that the clerk must give. Subdivision (f)(10) implements the amendment to § 704(b) which requires the court to provide a copy to all creditors of a statement by the United States trustee or bankruptcy administrator as to whether the debtor's case would be presumed to be an abuse under § 707(b) not later than five days after receiving it.

Subdivision (f)(11) is new. The rule is amended to provide notice to creditors of the debtor's filing of a statement in a chapter 11, 12, or 13 case that there is no reasonable cause to believe that § 522(q) applies in the case. If a creditor disputes that assertion, the creditor can request a delay of the entry of the discharge in the case.

Subdivision (g)(2) is amended because the 2005 amendments to § 342(f) of the Code permit creditors in chapter 7 and 13 individual debtor cases to file a notice with any bankruptcy court of the address to which the creditor wishes all notices to be sent. This provision does not apply in cases of nonindividuals in chapter 7 and in cases under chapters 11 and 12, so Rule 2002(g)(2) still operates in

those circumstances. It also continues to apply in cases under chapters 7 and 13 if the creditor has not filed a notice under § 342(f). The amendment to Rule 2002(g)(2) therefore only limits that subdivision when a creditor files a notice under § 342(f).

Subdivision (p)(2) is added to the rule to grant creditors with a foreign address to which notices are mailed at least 30 days' notice of the time within which to file proofs of claims if notice is mailed to the foreign address, unless the court orders otherwise. If cause exists, such as likely delays in the delivery of notices in particular locations, the court may extend the notice period for creditors with foreign addresses. The court may also shorten the additional notice time if circumstances so warrant. For example, if the court in a chapter 11 case determines that supplementing the notice to a foreign creditor with notice by electronic means, such as email or facsimile, would give the creditor reasonable notice, the court may order that the creditor be given only 20 days' notice in accordance with Rule 2002(a)(7).

Subdivision (q) is added to require that notice of the hearing on the petition for recognition of a foreign proceeding be given to the debtor, all administrators in foreign proceedings of the debtor, entities against whom provisional relief is sought, and entities with whom the debtor is engaged in litigation at the time of the commencement of the case. There is no need at this stage of the proceedings to provide notice to all creditors. If the foreign representative should take action to commence a case under another chapter of the Code, the rules governing those proceedings will operate to provide that notice is given to all creditors.

The rule also requires notice of the court's intention to communicate with a foreign court or foreign representative under Rule 5012.

Interim LR 2003. MEETING OF CREDITORS OR EQUITY SECURITY HOLDERS.

(a) DATE AND PLACE. Except as provided in § 341(e) of the Code, in ~~In~~ a chapter 7 liquidation or a chapter 11 reorganization case, the United States trustee shall call a meeting of creditors to be held no fewer than 20 and no more than 40 days after the order for relief. In a chapter 12 family farmer debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 20 and no more than 35 days after the order for relief. In a chapter 13 individual's debt adjustment case, the United States trustee shall call a meeting of creditors to be held no fewer than 20 and no more than 50 days after the order for relief. If there is an appeal from or a motion to vacate the order for relief, or if there is a motion to dismiss the case, the United States trustee may set a later date for the meeting. The meeting may be held at a regular place for holding court or at any other place designated by the United States trustee within the district convenient for the parties in interest. If the United States trustee designates a place for the meeting which is not regularly staffed by the United States trustee or an assistant who may preside at the meeting, the meeting may be held not more than 60 days after the order for relief.

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Rule 2003 COMMITTEE NOTE

If the debtor has solicited acceptances to a plan before commencement of the case, § 341(e), which was added to the Bankruptcy Code in 2005, authorizes the court, on request of a party in

interest and after notice and a hearing, to order that a meeting of creditors not be convened. The rule is amended to recognize that a meeting of creditors might not be held in those cases.

Interim LR 2007.1. APPOINTMENT OF TRUSTEE OR EXAMINER IN A CHAPTER 11 REORGANIZATION CASE.

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(b) ELECTION OF TRUSTEE.

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(3) *Report of Election and Resolution of Disputes.*

(A) Report of Undisputed Election. If no dispute arises out of the election ~~is not disputed~~, the United States trustee shall promptly file a report ~~of certifying~~ certifying the election, including the name and address of the person elected and a statement that the election is undisputed. The report shall be accompanied by a verified statement of the person elected setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee. ~~The United States trustee shall file with the report an application for approval of the appointment in accordance with subdivision (c) of this rule. The report constitutes appointment of the elected person to serve as trustee, subject to court approval, as of the date of entry of the order approving the appointment.~~

(B) Dispute Arising Out of an Disputed Election. If a dispute arises out of an ~~the election is disputed~~, the United States trustee shall promptly file a report stating that the election is disputed, informing the court of the nature of the dispute, and listing the name and address of any candidate elected under any alternative presented by the dispute. The report shall be accompanied by a verified statement by each candidate elected under each alternative presented by the dispute, setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, and or any person employed in the office of the United States trustee. Not later than the date on which the report of the disputed election is filed, the United States trustee shall mail a copy of the report and each verified statement to any party in interest that has made a request to convene a meeting under § 1104(b) or to receive a copy of the report, and to any committee appointed under § 1102 of the Code. ~~Unless a motion for the resolution of the dispute is filed not later than 10 days after the United States trustee files the report, any person appointed by the United States trustee under § 1104(d) and approved in accordance with subdivision (c) of this rule shall serve as trustee. If a motion for the resolution of the dispute is timely filed, and the court determines the result of the election and approves the person elected, the report will constitute appointment of the elected person as of the date of entry of the order approving the appointment.~~

(c) APPROVAL OF APPOINTMENT. An order approving the appointment of a trustee ~~elected under § 1104(b) or appointed under § 1104(d), or the appointment of an examiner under § 1104(d) of the Code~~, shall be made on application of the United States trustee. The application shall state the name of the person appointed and, to the best of the applicant's knowledge, all the person's connections with the debtor, creditors, any other parties in interest, their respective attorneys and

accountants, the United States trustee, ~~and~~ or persons employed in the office of the United States trustee. ~~Unless the person has been elected under § 1104(b), the~~ The application shall state the names of the parties in interest with whom the United States trustee consulted regarding the appointment. The application shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, ~~and~~ or any person employed in the office of the United States trustee.

Rule 2007.1. COMMITTEE NOTE

Under § 1104(b)(2) of the Code, as amended in 2005, if an eligible, disinterested person is elected to serve as trustee in a chapter 11 case, the United States trustee is directed to file a report certifying the election. The person elected does not have to be appointed to the position. Rather, the filing of the report certifying the election itself constitutes the appointment. The section further provides that in the event of a dispute in the election of a trustee, the court must resolve the matter. The rule is amended to be consistent with § 1104(b)(2).

When the United States trustee files a report certifying the election of a trustee, the person elected must provide a verified statement, similar to the statement required of professional persons under Rule 2014, disclosing connections with parties in interest and certain other persons connected with the case. Although court approval of the person elected is not required, the disclosure of the person's connections will enable parties in interest to determine whether the person is disinterested.

Interim LR 2007.2. APPOINTMENT OF PATIENT CARE OMBUDSMAN IN A HEALTH CARE BUSINESS CASE.

(a) ORDER TO APPOINT PATIENT CARE OMBUDSMAN. In a chapter 7, chapter 9, or chapter 11 case in which the debtor is a health care business, the court shall order the appointment of a patient care ombudsman under § 333 of the Code, unless the court, on motion of the United States trustee or a party in interest filed not later than 20 days after the commencement of the case or within another time fixed by the court, finds that the appointment of a patient care ombudsman is not necessary for the protection of patients under the specific circumstances of the case.

(b) MOTION FOR ORDER TO APPOINT OMBUDSMAN. If the court has ordered that the appointment of an ombudsman is not necessary, or has ordered the termination of the appointment of an ombudsman, the court, on motion of the United States trustee or a party in interest, may order the appointment at any time during the case if the court finds that the appointment of an ombudsman has become necessary to protect patients.

(c) APPOINTMENT OF OMBUDSMAN. If a patient care ombudsman is appointed under § 333, the United States trustee shall promptly file a notice of the appointment, including the name and address of the person appointed. Unless the person appointed is a State Long-Term Care Ombudsman, the notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, patients, any other party in interest, their respective attorneys and accountants, the United States trustee, and any person employed in the office of the United States trustee.

(d) TERMINATION OF APPOINTMENT. On motion of the United States trustee or a party in interest, the court may terminate the appointment of a patient care ombudsman if the court finds that the appointment is not necessary for the protection of patients.

(e) MOTION. A motion under this rule shall be governed by Rule 9014. The motion shall be transmitted to the United States trustee and served on the debtor, the trustee, any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct.

Rule 2007.2 COMMITTEE NOTE

Section 333 of the Code, added in 2005, requires the court to order the appointment of a health care ombudsman within the first 30 days of a health care business case, unless the court finds that the appointment is not necessary for the protection of patients. The rule recognizes this requirement and provides a procedure by which a party may obtain a court order finding that the appointment of a patient care ombudsman is unnecessary. In the absence of a timely motion under subdivision (a) of this rule, the court will enter an order directing the United States trustee to appoint the ombudsman.

Subdivision (b) recognizes that, despite a previous order finding that a patient care ombudsman is not necessary, circumstances of the case may change or newly discovered evidence may demonstrate the necessity of an ombudsman to protect the interests of patients. In that event, a party may move the court for an order directing the appointment of an ombudsman.

When the appointment of a patient care ombudsman is ordered, the United States trustee is required to appoint a disinterested person to serve in that capacity. Court approval of the appointment is not required, but subdivision (c) requires the person appointed, if not a State Long-Term Care Ombudsman, to file a verified statement similar to the statement filed by professional persons under Rule 2014 so that parties in interest will have information relevant to disinterestedness. If a party believes that the person appointed is not disinterested, it may file a motion asking the court to find that the person is not eligible to serve.

Subdivision (d) permits parties in interest to move for the termination of the appointment of a patient care ombudsman. If the movant can show that there no longer is any need for the ombudsman, the court may order the termination of the appointment.

Interim LR 2015. DUTY TO KEEP RECORDS, MAKE REPORTS, AND GIVE NOTICE OF CASE OR CHANGE OF STATUS.

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(d) FOREIGN REPRESENTATIVE. In a case in which the court has granted recognition of a foreign proceeding under chapter 15, the foreign representative shall file any notice required under § 1518 of the Code within 15 days after the date when the representative becomes aware of the subsequent information.

~~(d)~~ (e) TRANSMISSION OF REPORTS. In a chapter 11 case the court may direct that copies or summaries of annual reports and copies or summaries of other reports shall be mailed to the creditors, equity security holders, and indenture trustees. The court may also direct the publication of summaries of any such reports. A copy of every report or summary mailed or published pursuant to this subdivision shall be transmitted to the United States trustee.

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Rule 2015 COMMITTEE NOTE

The rule is amended to fix the time for the filing of notices under § 1519 which was added to the Code in 2005. Former subdivision (d) is renumbered as subdivision (e).

Interim LR 2015.1. PATIENT CARE OMBUDSMAN.

(a) REPORTS. Unless the court orders otherwise, a patient care ombudsman, at least 10 days before making a report under § 333(b)(2) of the Code, shall give notice that the report will be made to the court. The notice shall be transmitted to the United States trustee, posted conspicuously at the health care facility that is the subject of the report, and served on the debtor, the trustee, all patients, and any committee elected under § 705 or appointed under § 1102 of the Code or its authorized agent, or, if the case is a chapter 9 municipality case or a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list filed under Rule 1007(d), and such other entities as the court may direct. The notice shall state the date and time when the report will be made, the manner in which the report will be made, and, if the report is in writing, the name, address, telephone number, email address, and website, if any, of the person from whom a copy of the report may be obtained at the debtor's expense.

(b) AUTHORIZATION TO REVIEW CONFIDENTIAL PATIENT RECORDS. A motion by a health care ombudsman under § 333(c) to review confidential patient records shall be governed by Rule 9014, served on the patient and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, and transmitted to the United States trustee subject to applicable nonbankruptcy law relating to patient privacy. Unless the court orders otherwise, a hearing on the motion may be commenced no earlier than 15 days after service of the motion.

Rule 2015.1 COMMITTEE NOTE

This rule is new. It implements § 333, added to the Code in 2005. Subdivision (a) is designed to give parties in interest, including patients or their representatives, sufficient notice so that they will be able to review written reports or attend hearings at which reports are made. The rule permits a notice to relate to a single report or to periodic reports to be given during the case. For example, the ombudsman may give notice that reports will be made at specified intervals or dates during the case.

Subdivision (a) of the rule requires that the notice be posted conspicuously at the health care facility in a place where it will be seen by patients and their families or others visiting the patient. This may require posting in common areas and patient rooms within the facility. Because health care facilities and the patients they serve can vary greatly, the locations of the posted notice should be tailored to the specific facility that is the subject of the report.

Subdivision (b) requires the ombudsman to notify the patient and the United States trustee that the ombudsman is seeking access to confidential patient records so that they will be able to appear and be heard on the matter. This procedure should assist the court in reaching its decision both as to access to the records and appropriate restrictions on that access to ensure continued confidentiality. Notices given under this rule are subject to provisions under applicable federal and state law that relate to the protection of patients' privacy, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (HIPAA).

Interim LR 2015.2. TRANSFER OF PATIENT IN HEALTH CARE BUSINESS CASE.

Unless the court orders otherwise, if the debtor is a health care business, the trustee may not transfer a patient to another health care business under § 704(a)(12) of the Code unless the trustee gives at least 10 days' notice of the transfer to the patient care ombudsman, if any, and to the patient and any family member or other contact person whose name and address has been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care subject to applicable nonbankruptcy law relating to patient privacy.

Rule 2015.2 COMMITTEE NOTE

This rule is new. Section 704(a)(12), added to the Code in 2005, authorizes the trustee to relocate patients when a health care business debtor's facility is in the process of being closed. The Code permits the trustee to take this action without the need for any court order, but the notice required by this rule will enable a patient care ombudsman appointed under § 333, or a patient who contends that the trustee's actions violate § 704(a)(12), to have those issues resolved before the patient is transferred.

This rule also permits the court to enter an order dispensing with or altering the notice requirement in proper circumstances. The facility could be closed immediately, or very quickly, such that 10 days' notice would not be possible in some instances. In that event, the court may shorten the time required for notice.

Notices given under this rule are subject to provisions under applicable federal and state law that relate to the protection of patients' privacy, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (HIPAA).

Interim LR 3002. FILING PROOF OF CLAIM OR INTEREST.

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(c) **TIME FOR FILING.** In a chapter 7 liquidation, chapter 12 family farmer's debt adjustment, or chapter 13 individual's debt adjustment case, a proof of claim is timely filed if it is filed not later than 90 days after the first date set for the meeting of creditors called under § 341(a) of the Code, except as follows:

(1) A proof of claim filed by a governmental unit, other than for a claim resulting from a tax return filed under § 1308, is timely filed if it is filed not later than 180 days after the date of the order for relief. On motion of a governmental unit before the expiration of such period and for cause

shown, the court may extend the time for filing of a claim by the governmental unit. A proof of claim filed by a governmental unit for a claim resulting from a tax return filed under § 1308 is timely filed if it is filed not later than 180 days after the date of the order for relief or 60 days after the date of the filing of the tax return, whichever is later.

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(6) If notice of the time for filing a proof of claim has been mailed to a creditor at a foreign address, on motion filed by the creditor before or after the expiration of the time, the court may extend the time by not more than 60 days if the court finds that the notice was not sufficient under the circumstances to give the creditor a reasonable time to file a proof of claim.

Rule 3002 COMMITTEE NOTE

Subdivision (c)(1) is amended to reflect the addition of § 1308 to the Bankruptcy Code in 2005. This provision requires that chapter 13 debtors file tax returns during the pendency of the case, and imposes bankruptcy-related consequences if debtors fail to do so. Subdivision (c)(1) provides additional time for governmental units to file a proof of claim for tax obligations with respect to tax returns filed during the pendency of a chapter 13 case.

Paragraph (c)(6) is added to give the court discretion to extend the time for filing a proof of claim for a creditor who received notice of the time to file the claim at a foreign address, if the court finds that the notice was not sufficient, under the particular circumstances, to give the foreign creditor a reasonable time to file a proof of claim. This amendment is designed to comply with § 1514(d), which was added to the Code in 2005 and requires that the rules and orders of the court provide such additional time as is reasonable under the circumstances for foreign creditors to file claims in cases under all chapters of the Code.

Interim LR 3003. FILING PROOF OF CLAIM OR EQUITY SECURITY INTEREST IN CHAPTER 9 MUNICIPALITY OR CHAPTER 11 REORGANIZATION CASES.

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(c) FILING PROOF OF CLAIM.

(1) *Who May File.* Any creditor or indenture trustee may file a proof of claim within the time prescribed by subdivision (c)(3) of this rule.

(2) *Who Must File.* Any creditor or equity security holder whose claim or interest is not scheduled or scheduled as disputed, contingent, or unliquidated shall file a proof of claim or interest within the time prescribed by subdivision (c)(3) of this rule; any creditor who fails to do so shall not be treated as a creditor with respect to such claim for the purposes of voting and distribution.

(3) *Time for Filing.* The court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed. Notwithstanding the expiration of such time, a proof of claim may be filed to the extent and under the conditions stated in Rule 3002(c)(2), (c)(3), ~~and (c)(4), and (c)(6).~~

(4) *Effect of Filing Claim or Interest.* A proof of claim or interest executed and filed in accordance with this subdivision shall supersede any scheduling of that claim or interest pursuant to § 521(a)(1) of the Code.

(5) *Filing by Indenture Trustee.* An indenture trustee may file a claim on behalf of all known or unknown holders of securities issued pursuant to the trust instrument under which it is trustee.

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Rule 3003 COMMITTEE NOTE

The rule is amended to implement § 1514(d), which was added to the Code in 2005, by making the new Rule 3002(c)(6) applicable in chapter 9 and chapter 11 cases. Section 1514(d) requires that creditors with foreign addresses be provided such additional time as is reasonable under the circumstances to file proofs of claims.

Interim LR 3016. FILING OF PLAN AND DISCLOSURE STATEMENT IN A CHAPTER 9 MUNICIPALITY OR CHAPTER 11 REORGANIZATION CASE.

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(b) **DISCLOSURE STATEMENT.** In a chapter 9 or 11 case, a disclosure statement under § 1125 or evidence showing compliance with § 1126(b) of the Code shall be filed with the plan or within a time fixed by the court, unless the plan is intended to provide adequate information under § 1125(f)(1). If the plan is intended to provide adequate information under § 1125(f)(1), it shall be so designated and Rule 3017.1 shall apply as if the plan is a disclosure statement.

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Rule 3016 COMMITTEE NOTE

Subdivision (b) is amended to recognize that, in 2005, § 1125(f)(1) was added to the Code to provide that the plan proponent in a small business case need not file a disclosure statement if the plan itself includes adequate information and the court finds that a separate disclosure statement is unnecessary. If the plan is intended to provide adequate information in a small business case, it may be conditionally approved as a disclosure statement under Rule 3017.1 and is subject to all other rules applicable to disclosure statements in small business cases.

Interim LR 3017.1. COURT CONSIDERATION OF DISCLOSURE STATEMENT IN A SMALL BUSINESS CASE.

(a) **CONDITIONAL APPROVAL OF DISCLOSURE STATEMENT.** ~~If the debtor is In a small business case and has made a timely election to be considered a small business in a chapter 11 case,~~ the court may, on application of the plan proponent or on its own initiative, conditionally

approve a disclosure statement filed in accordance with Rule 3016~~(b)~~. On or before conditional approval of the disclosure statement, the court shall:

- (1) fix a time within which the holders of claims and interests may accept or reject the plan;
- (2) fix a time for filing objections to the disclosure statement;
- (3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and
- (4) fix a date for the hearing on confirmation.

(b) **APPLICATION OF RULE 3017.** Rule 3017(a), (b), (c), and (e) do not apply to a conditionally approved disclosure statement. Rule 3017(d) applies to a conditionally approved disclosure statement, except that conditional approval is considered approval of the disclosure statement for the purpose of applying Rule 3017(d).

(c) **FINAL APPROVAL.**

(1) *Notice.* Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Rule 2002 and may be combined with notice of the hearing on confirmation of the plan.

(2) *Objections.* Objections to the disclosure statement shall be filed, transmitted to the United States trustee, and served on the debtor, the trustee, any committee appointed under the Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix.

(3) *Hearing.* If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

Rule 3017.1. COMMITTEE NOTE

Section 101 of the Code, as amended in 2005, defines a “small business case” and “small business debtor,” and eliminates any need to elect that status. Therefore, the reference in the rule to an election is deleted.

As provided in the amendment to Rule 3016(b), a plan intended to provide adequate information in a small business case under § 1125(f)(1) may be conditionally approved and is otherwise treated as a disclosure statement under this rule.

**Interim LR 3019. MODIFICATION OF ACCEPTED PLAN BEFORE OR AFTER
CONFIRMATION IN A CHAPTER 9 MUNICIPALITY OR
CHAPTER 11 REORGANIZATION CASE.**

(a) In a chapter 9 or chapter 11 case, after a plan has been accepted and before its confirmation, the proponent may file a modification of the plan. If the court finds after hearing on

notice to the trustee, any committee appointed under the Code, and any other entity designated by the court that the proposed modification does not adversely change the treatment of the claim of any creditor or the interest of any equity security holder who has not accepted in writing the modification, it shall be deemed accepted by all creditors and equity security holders who have previously accepted the plan.

(b) If the debtor is an individual, a request to modify the plan under § 1127(e) of the Code shall identify the proponent and shall be filed together with the proposed modification. The clerk, or some other person as the court may direct, shall give the debtor, the trustee, and all creditors not less than 20 days' notice by mail of the time fixed for filing objections and, if an objection is filed, the hearing to consider the proposed modification, unless the court orders otherwise with respect to creditors who are not affected by the proposed modification. A copy of the notice shall be transmitted to the United States trustee. A copy of the proposed modification shall be included with the notice. Any objection to the proposed modification shall be filed and served on the debtor, the proponent of the modification, the trustee, and any other entity designated by the court, and shall be transmitted to the United States trustee. An objection to a proposed modification is governed by Rule 9014.

Rule 3019 COMMITTEE NOTE

Section 1127 was amended in 2005 to provide for modification of a confirmed plan in a chapter 11 case of an individual debtor. The rule is amended to establish the procedure for filing and objecting to a proposed modification of a confirmed plan.

Interim LR 4002. DUTIES OF DEBTOR.

(a) IN GENERAL. In addition to performing other duties prescribed by the Code and rules, the debtor shall:

- (1) attend and submit to an examination at the times ordered by the court;
- (2) attend the hearing on a complaint objecting to discharge and testify, if called as a witness;
- (3) inform the trustee immediately in writing as to the location of real property in which the debtor has an interest and the name and address of every person holding money or property subject to the debtor's withdrawal or order if a schedule of property has not yet been filed pursuant to Rule 1007;
- (4) cooperate with the trustee in the preparation of an inventory, the examination of proofs of claim, and the administration of the estate; and
- (5) file a statement of any change of the debtor's address.

(b) INDIVIDUAL DEBTOR'S DUTY TO PROVIDE DOCUMENTATION.

(1) Personal Identification. Every individual debtor shall bring to the meeting of creditors under § 341:

(A) a picture identification issued by a governmental unit, or other personal identifying information that establishes the debtor's identity; and

(B) evidence of social security number(s), or a written statement that such documentation does not exist.

(2) *Financial Information.* Every individual debtor shall bring to the meeting of creditors under § 341 and make available to the trustee the following documents or copies of them, or provide a written statement that the documentation does not exist or is not in the debtor's possession:

(A) evidence of current income such as the most recent payment advice;

(B) unless the trustee or the United States trustee instructs otherwise, statements for each of the debtor's depository and investment accounts, including checking, savings, and money market accounts, mutual funds and brokerage accounts for the time period that includes the date of the filing of the petition; and

(C) documentation of monthly expenses claimed by the debtor when required by § 707(b)(2)(A) or (B).

(3) *Tax Return.* At least 7 days before the first date set for the meeting of creditors under § 341, the debtor shall provide to the trustee a copy of the debtor's Federal income tax return for the most recent tax year ending immediately before the commencement of the case and for which a return was filed, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist.

(4) *Tax Returns Provided to Creditors.* If a creditor, at least 15 days before the first date set for the meeting of creditors under § 341, requests a copy of the debtor's tax return that is to be provided to the trustee under subdivision (b)(3), the debtor shall provide to the requesting creditor a copy of the return, including any attachments, or a transcript of the tax return, or provide a written statement that the documentation does not exist at least 7 days before the first date set for the meeting of creditors under § 341.

(5) The debtor's obligation to provide tax returns under Rule 4002(b)(3) and (b)(4) is subject to procedures for safeguarding the confidentiality of tax information established by the Director of the Administrative Office of the United States Courts.

Rule 4002 COMMITTEE NOTE

This rule is amended to implement the directives of § 521(a) (1)(B)(iv) and (e)(2) of the Code, which were added by the 2005 amendments. These Code amendments expressly require the debtor to file with the court, or provide to the trustee, specific documents. The amendments to the rule implement these obligations and establish a time frame for creditors to make requests for a copy of the debtor's Federal income tax return. The rule also requires the debtor to provide documentation in support of claimed expenses under § 707(b)(2)(A) and (B).

Subdivision (b) is also amended to require the debtor to cooperate with the trustee by providing materials and documents necessary to assist the trustee in the performance of the trustee's duties. Nothing in the rule, however, is intended to limit or restrict the debtor's duties under § 521, or to

limit the access of the Attorney General to any information provided by the debtor in the case. The rule does not require that the debtor create documents or obtain documents from third parties; rather, the debtor's obligation is to bring to the meeting of creditors under § 341 the documents which the debtor possesses. Any written statement that the debtor provides indicating either that documents do not exist or are not in the debtor's possession must be verified or contain an unsworn declaration as required under Rule 1008.

Because the amendment implements the debtor's duty to cooperate with the trustee, the materials provided to the trustee would not be made available to any other party in interest at the § 341 meeting of creditors other than the Attorney General. Some of the documents may contain otherwise private information that should not be disseminated. For example, pay stubs and financial account statements might include the social security numbers of the debtor and the debtor's spouse and dependents, as well as the names of the debtor's children. The debtor should redact all but the last four digits of all social security numbers and the names of any minors when they appear in these documents. This type of information would not usually be needed by creditors and others who may be attending the meeting. If a creditor perceives a need to review specific documents or other evidence, the creditor may proceed under Rule 2004.

Tax information produced under this rule is subject to procedures for safeguarding confidentiality established by the Director of the Administrative Office of the United States Courts.

Interim LR 4003. EXEMPTIONS.

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(b) OBJECTING TO A CLAIM OF EXEMPTIONS.

(1) Except as provided in paragraph (2), a party in interest may file an objection to the list of property claimed as exempt ~~only~~ within 30 days after the meeting of creditors held under § 341(a) is concluded or within 30 days after any amendment to the list or supplemental schedules is filed, whichever is later. The court may, for cause, extend the time for filing objections if, before the time to object expires, a party in interest files a request for an extension.

(2) An objection to a claim of exemption based on § 522(q) shall be filed before the closing of the case. If an exemption is first claimed after a case is reopened, an objection shall be filed before the reopened case is closed.

(3) Copies of the objections shall be delivered or mailed to the trustee, the person filing the list, and the attorney for that person.

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Rule 4003. COMMITTEE NOTE

Subdivision (b) is amended to reflect the 2005 addition of subsection (q) to § 522 of the Bankruptcy Code. Section 522(q) imposes a \$125,000 limit on a state homestead exemption if the debtor has been convicted of a felony or owes a debt arising from certain causes of action. Other revised provisions of the Bankruptcy Code, such as § 727(a)(12) and § 1328(h), suggest that the court

may consider issues relating to § 522 late in the case, and the 30-day period for objections would not be appropriate for this provision. A new subdivision (b)(2) is added to provide a separate time limit for this provision.

Interim LR 4004. GRANT OR DENIAL OF DISCHARGE.

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(c) GRANT OF DISCHARGE.

(1) In a chapter 7 case, on expiration of the time fixed for filing a complaint objecting to discharge and the time fixed for filing a motion to dismiss the case under Rule 1017(e), the court shall forthwith grant the discharge unless:

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(F) a motion to extend the time for filing a motion to dismiss the case under Rule 1017(e)~~(4)~~ is pending, ~~or~~

(G) the debtor has not paid in full the filing fee prescribed by 28 U.S.C. § 1930(a) and any other fee prescribed by the Judicial Conference of the United States under 28 U.S.C. § 1930(b) that is payable to the clerk upon the commencement of a case under the Code, unless the court has waived the fees under 28 U.S.C. § 1930(f);

(H) the debtor has not filed with the court a statement regarding completion of a course in personal financial management as required by Rule 1007(b)(7);

(I) a motion to delay or postpone discharge under § 727(a)(12) is pending;

(J) a presumption that a reaffirmation agreement is an undue hardship has arisen under § 524(m); or

(K) a motion to delay discharge, alleging that the debtor has not filed with the court all tax documents required to be filed under § 521(f), is pending.

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(3) If the debtor is required to file a statement under Rule 1007(b)(8), the court shall not grant a discharge earlier than 30 days after the filing of the statement.

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Rule 4004 COMMITTEE NOTE

Subdivision (c)(1)(G) is amended to reflect the fee waiver provision added in 2005 to 28 U.S.C. § 1930.

Subdivision (c)(1)(H) is new. It reflects the 2005 addition to the Bankruptcy Code of §§ 727(a)(11) and 1328(g), which require that individual debtors complete a course in personal financial management as a condition to the entry of a discharge. Including this requirement in the rule helps prevent the inadvertent entry of a discharge when the debtor has not complied with this requirement. If a debtor fails to file the required statement regarding a personal financial management course, the clerk will close the bankruptcy case without the entry of a discharge.

Subdivision (c)(1)(I) is new. It reflects the 2005 addition to the Bankruptcy Code of § 727(a)(12). This provision is linked to § 522(q). Section 522(q) limits the availability of the homestead exemption for individuals who have been convicted of a felony or who owe a debt arising from certain causes of action within a particular time frame. The existence of reasonable cause to believe that § 522(q) may be applicable to the debtor constitutes grounds for withholding the discharge.

Subdivision (c)(1)(J) is new. It reflects the 2005 revisions to § 524 of the Bankruptcy Code that alter the requirements for approval of reaffirmation agreements. Section 524(m) sets forth circumstances under which a reaffirmation agreement is presumed to be an undue hardship. This triggers an obligation to review the presumption and may require notice and a hearing. Subdivision (c)(1)(J) has been added to prevent the discharge from being entered until the court approves or disapproves the reaffirmation agreement in accordance with § 524(m).

Subdivision (c)(1)(K) is new. Subdivision (c)(1) is amended by adding subparagraph (K) to implement § 1228(a) of Public Law No. 109-8.

Subdivision (c)(3) is new. The rule is also amended by adding subdivision (c)(3) that postpones the entry of the discharge of an individual debtor in a case under chapter 11, 12, or 13 if there is a question as to the applicability of § 522(q) of the Code. The postponement provides an opportunity for a creditor to file a motion to limit the debtor's exemption under that provision.

Interim LR 4006. NOTICE OF NO DISCHARGE.

If an order is entered denying or revoking a discharge or if a waiver of discharge is filed, the clerk, after the order becomes final or the waiver is filed, or, in the case of an individual, if the case is closed without the entry of an order of discharge, shall promptly give notice thereof to all ~~creditors~~ parties in interest in the manner provided in Rule 2002.

Rule 4006 COMMITTEE NOTE

Rule 4006 is amended to reflect the 2005 revisions to the Bankruptcy Code requiring that individual debtors complete a course in personal financial management as a condition to the entry of a discharge. If the debtor fails to complete the course, no discharge will be entered, but the case may be closed. The amended rule provides notice to parties in interest, including the debtor, that no discharge was entered.

Interim LR 4007. DETERMINATION OF DISCHARGEABILITY OF A DEBT.

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(c) TIME FOR FILING COMPLAINT UNDER § 523(c) IN A CHAPTER 7 LIQUIDATION, CHAPTER 11 REORGANIZATION, OR CHAPTER 12 FAMILY FARMER'S DEBT ADJUSTMENT CASE, OR CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE; NOTICE OF TIME FIXED. Except as provided in subdivision (d), a ~~A~~ complaint to determine the dischargeability of a debt under § 523(c) shall be filed no later than 60 days after the first date set for the meeting of creditors under § 341(a). The court shall give all creditors no less than 30 days' notice of the time so fixed in the manner provided in Rule 2002. On motion of a party in interest, after hearing on notice, the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

(d) TIME FOR FILING COMPLAINT UNDER ~~§ 523(e)~~ § 523(a)(6) IN CHAPTER 13 INDIVIDUAL'S DEBT ADJUSTMENT CASE; NOTICE OF TIME FIXED. On motion by a debtor for a discharge under § 1328(b), the court shall enter an order fixing the time to file a complaint to determine the dischargeability of any debt under ~~§ 523(e)~~ § 523(a)(6) and shall give no less than 30 days' notice of the time fixed to all creditors in the manner provided in Rule 2002. On motion of any party in interest after hearing on notice the court may for cause extend the time fixed under this subdivision. The motion shall be filed before the time has expired.

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Rule 4007 COMMITTEE NOTE

Subdivision (c) is amended to reflect the 2005 amendments to § 1328(a) of the Bankruptcy Code. This revision expands the exceptions to discharge upon completion of a chapter 13 plan. Subdivision (c) extends to chapter 13 the same time limits applicable to other chapters of the Code with respect to the two exceptions to discharge that have been added to § 1328(a) and that are within § 523(c).

The amendment to subdivision (d) reflects the 2005 amendments to § 1328(a) that expands the exceptions to discharge upon completion of a chapter 13 plan, including two out of three of the provisions that fall within § 523(c). However, the 2005 revisions to § 1328(a) do not include a reference to § 523(a)(6), which is the third provision to which § 523(c) refers. Thus, the need for subdivision (d) is now limited to that provision.

Interim LR 4008. DISCHARGE AND REAFFIRMATION HEARING.

Not more than 30 days following the entry of an order granting or denying a discharge, or confirming a plan in a chapter 11 reorganization case concerning an individual debtor and on not less than 10 days notice to the debtor and the trustee, the court may hold a hearing as provided in § 524(d) of the Code. A motion by the debtor for approval of a reaffirmation agreement shall be filed before or at the hearing. The debtor's statement required under § 524(k) shall be accompanied by a statement of the total income and total expense amounts stated on schedules I and J. If there is a difference between the income and expense amounts stated on schedules I and J and the statement required under § 524(k), the accompanying statement shall include an explanation of any difference.

Rule 4008 COMMITTEE NOTE

Rule 4008 is amended to reflect the 2005 addition of §§ 524(k)(6)(A) and 524(m) to the Bankruptcy Code. These provisions require that a debtor file a signed statement in support of a reaffirmation agreement, and authorize a court to review the agreement if, based on the assertions on the statement, the agreement is presumed to be an undue hardship. The rule revision requires that an accompanying statement show the total income and expense amounts stated on schedules I and J and an explanation of any discrepancies. This will allow the court to evaluate the reaffirmation for undue hardship as § 524(m) requires. A corresponding change has been made to Rule 4004(c) to prevent the entry of a discharge until the court has approved or disapproved the reaffirmation agreement in accordance with § 524(m).

Interim LR 5003. RECORDS KEPT BY THE CLERK.

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(e) REGISTER OF MAILING ADDRESSES OF FEDERAL AND STATE GOVERNMENTAL UNITS AND CERTAIN TAXING AUTHORITIES. The United States or the state or territory in which the court is located may file a statement designating its mailing address. The United States, state, territory, or local governmental unit responsible for the collection of taxes within the district in which the case is pending may file a statement designating an address for service of requests under § 505(b) of the Code, and the designation shall describe where further information concerning additional requirements for filing such requests may be found. The clerk shall keep, in the form and manner as the Director of the Administrative Office of the United States Courts may prescribe, a register that includes ~~these~~ the mailing addresses designated under this subdivision, but the clerk is not required to include in the register more than one mailing address for each department, agency, or instrumentality of the United States or the state or territory. If more than one address for a department, agency, or instrumentality is included in the register, the clerk shall also include information that would enable a user of the register to determine the circumstances when each address is applicable, and mailing notice to only one applicable address is sufficient to provide effective notice. The clerk shall update the register annually, effective January 2 of each year. The mailing address in the register is conclusively presumed to be a proper address for the governmental unit, but the failure to use that mailing address does not invalidate any notice that is otherwise effective under applicable law.

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Rule 5003 COMMITTEE NOTE

The rule is amended to implement the addition of § 505(b)(1) to the Code in 2005, which allows taxing authorities to designate addresses to use for the service of a request under that subsection.

Interim LR 5008. NOTICE REGARDING PRESUMPTION OF ABUSE IN CHAPTER 7 CASES OF INDIVIDUAL DEBTORS.

In a chapter 7 case of an individual with primarily consumer debts in which a presumption of abuse has arisen under § 707(b), the clerk shall give to creditors notice of the presumption of abuse in

accordance with Rule 2002 within 10 days after the date of the filing of the petition. If the debtor has not filed a statement indicating whether a presumption of abuse has arisen, the clerk shall give notice to creditors within 10 days after the date of the filing of the petition that the debtor has not filed the statement and that further notice will be given if a later filed statement indicates that a presumption of abuse has arisen. If a debtor later files a statement indicating that a presumption of abuse has arisen, the clerk shall give notice to creditors of the presumption of abuse as promptly as practicable.

Rule 5008 COMMITTEE NOTE

This rule is new. The 2005 revisions to § 342 of the Bankruptcy Code require that clerks give written notice to all creditors not later than 10 days after the date of the filing of the petition that a presumption of abuse has arisen under § 707(b). A statement filed by the debtor will be the source of the clerk's information about the presumption of abuse. This rule enables the clerk to meet its obligation to send the notice within the statutory time period set forth in § 342. In the event that the court receives the debtor's statement after the clerk has sent the first notice, and the debtor's statement indicates a presumption of abuse, this rule requires that the clerk send a second notice.

Interim LR 5012. COMMUNICATION AND COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES.

Except for communications for scheduling and administrative purposes, the court in any case commenced by a foreign representative shall give at least 20 days' notice of its intent to communicate with a foreign court or a foreign representative. The notice shall identify the subject of the anticipated communication and shall be given in the manner provided by Rule 2002(q). Any entity that wishes to participate in the communication shall notify the court of its intention not later than 5 days before the scheduled communication.

Rule 5012 COMMITTEE NOTE

This rule is new. It implements § 1525 which was added to the Code in 2005. The rule provides an opportunity for parties in the case to take appropriate action prior to the communication between courts or between the court and a foreign representative to establish procedures for the manner of the communication and the right to participate in the communication. Participation in the communication includes both active and passive participation. Parties wishing to participate must notify the court at least 5 days before the hearing so that ample time exists to make arrangements necessary to permit the participation.

Interim LR 6004. USE, SALE, OR LEASE OF PROPERTY.

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(g) SALE OF PERSONALLY IDENTIFIABLE INFORMATION.

(1) Motion. A motion for authority to sell or lease personally identifiable information under § 363(b)(1)(B) shall include a request for an order directing the United States trustee to appoint a consumer privacy ombudsman under § 332. The motion shall be governed by Rule 9014 and shall be served on any committee elected under § 705 or appointed under § 1102 of the Code, or if the case

is a chapter 11 reorganization case and no committee of unsecured creditors has been appointed under § 1102, on the creditors included on the list of creditors filed under Rule 1007(d), and on such other entities as the court may direct. The motion shall be transmitted to the United States trustee.

(2) Appointment. If a consumer privacy ombudsman is appointed under § 332, no later than 5 days before the hearing on the motion under § 363(b)(1)(B), the United States trustee shall file a notice of the appointment, including the name and address of the person appointed. The United States trustee's notice shall be accompanied by a verified statement of the person appointed setting forth the person's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee.

(g)-(h) STAY OF ORDER AUTHORIZING USE, SALE, OR LEASE OF PROPERTY. An order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 10 days after entry of the order, unless the court orders otherwise.

Rule 6004 COMMITTEE NOTE

This rule is amended to implement §§ 332 and 363(b)(1)(B), which were added to the Code in 2005.

Interim LR 6011. DISPOSAL OF PATIENT RECORDS IN HEALTH CARE BUSINESS CASE.

(a) NOTICE BY PUBLICATION UNDER § 351(1)(A). A notice regarding the claiming or disposing of patient records under § 351(1)(A) shall not identify patients by name or other identifying information, but shall:

(1) identify with particularity the health care facility whose patient records the trustee proposes to destroy;

(2) state the name, address, telephone number, email address, and website, if any, of a person from whom information about the patient records may be obtained and how those records may be claimed; and

(3) state the date by which patient records must be claimed, and that if they are not so claimed the records will be destroyed.

(b) NOTICE BY MAIL UNDER § 351(1)(B). Subject to applicable nonbankruptcy law relating to patient privacy, a notice regarding the claiming or disposing of patient records under § 351(1)(B) shall, in addition to including the information in subdivision (a), direct that a patient's family member or other representative who receives the notice inform the patient of the notice, and be mailed to the patient and any family member or other contact person whose name and address have been given to the trustee or the debtor for the purpose of providing information regarding the patient's health care, and to insurance companies known to have provided health care insurance to the patient.

(c) PROOF OF COMPLIANCE WITH NOTICE REQUIREMENT. Unless the court orders the trustee to file proof of compliance with § 351(1)(B) under seal, the trustee shall not file, but shall maintain, the proof of compliance for a reasonable time.

(d) REPORT OF DESTRUCTION OF RECORDS. The trustee shall file, not later than 30 days after the destruction of patient records under § 351(3), a report certifying that the unclaimed records have been destroyed and explaining the method used to effect the destruction. The report shall not identify patients by name or other identifying information.

Rule 6011 COMMITTEE NOTE

This rule is new. It implements § 351(1), which was added to the Code in 2005. That provision requires the trustee to notify patients that their patient records will be destroyed if they remain unclaimed for one year after the publication of a notice in an appropriate newspaper. The Code provision also requires that individualized notice be sent to each patient and to the patient's family member or other contact person.

The variety of health care businesses and the range of current and former patients present the need for flexibility in the creation and publication of the notices that will be given. Nevertheless, there are some matters that must be included in any notice being given to patients, their family members, and contact persons to ensure that sufficient information is provided to these persons regarding the trustee's intent to dispose of patient records. Subdivision (a) of this rule lists the minimum requirements for notices given under § 351(1)(A), and subdivision (b) governs the form of notices under § 351(1)(B). Notices given under this rule are subject to provisions under applicable federal and state law that relate to the protection of patients' privacy, such as the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191 (HIPAA).

Subdivision (c) directs the trustee to maintain proof of compliance with § 351(1)(B), but it prohibits filing the proof of compliance unless the court orders the trustee to file it under seal because the proof of compliance may contain patient names that should or must remain confidential.

Subdivision (d) requires the trustee to file a report with the court regarding the destruction of patient records. This certification is intended to ensure that the trustee properly completed the destruction process. However, because the report will be filed with the court and ordinarily will be available to the public under § 107, the names, addresses, and other identifying information of the patient shall not be included in the report to protect patient privacy.

Interim LR 8001. MANNER OF TAKING APPEAL; VOLUNTARY DISMISSAL; CERTIFICATION TO COURT OF APPEALS.

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(f) CERTIFICATION FOR DIRECT APPEAL TO COURT OF APPEALS

(1) *Timely Appeal Required.* A certification of a judgment, order, or decree of a bankruptcy court to a court of appeals under 28 U.S.C. § 158(d)(2) shall not be treated as a certification entered on the docket within the meaning of § 1233(b)(4)(A) of Public Law No. 109-8

until a timely appeal has been taken in the manner required by subdivisions (a) or (b) of this rule and the notice of appeal has become effective under Rule 8002.

(2) Court Where Made. A certification that a circumstance specified in 28 U.S.C. § 158(d)(2)(A)(i)-(iii) exists shall be filed in the court in which a matter is pending for purposes of 28 U.S.C. § 158(d)(2) and this rule. A matter is pending in a bankruptcy court until the docketing, in accordance with Rule 8007(b), of an appeal taken under 28 U.S.C. § 158(a)(1) or (2), or the grant of leave to appeal under 28 U.S.C. § 158(a)(3). A matter is pending in a district court or bankruptcy appellate panel after the docketing, in accordance with Rule 8007(b), of an appeal taken under 28 U.S.C. § 158(a)(1) or (2), or the grant of leave to appeal under 28 U.S.C. § 158(a)(3).

(A) Certification by Court on Request or Court's Own Initiative.

(i) Before Docketing or Grant of Leave to Appeal. Only a bankruptcy court may make a certification on request or on its own initiative while the matter is pending in the bankruptcy court.

(ii) After Docketing or Grant of Leave to Appeal. Only the district court or bankruptcy appellate panel involved may make a certification on request of the parties or on its own initiative while the matter is pending in the district court or bankruptcy appellate panel.

(B) Certification by All Appellants and Appellees Acting Jointly. A certification by all the appellants and appellees, if any, acting jointly may be made by filing the appropriate Official Form with the clerk of the court in which the matter is pending. The certification may be accompanied by a short statement of the basis for the certification, which may include the information listed in subdivision (f)(3)(C) of this rule.

(3) Request for Certification; Filing; Service; Contents.

(A) A request for certification shall be filed, within the time specified by 28 U.S.C. § 158(d)(2), with the clerk of the court in which the matter is pending.

(B) Notice of the filing of a request for certification shall be served in the manner required for service of a notice of appeal under Rule 8004.

(C) A request for certification shall include the following:

(i) the facts necessary to understand the question presented;

(ii) the question itself;

(iii) the relief sought;

(iv) the reasons why the appeal should be allowed and is authorized by statute or rule, including why a circumstance specified in 28 U.S.C. § 158(d)(2)(A)(i)-(iii) exists; and

(v) an attached copy of the judgment, order, or decree complained of and any related opinion or memorandum.

(D) A party may file a response to a request for certification or a cross-request within 10 days after the notice of the request is served, or another time fixed by the court.

(E) The request, cross request, and any response shall not be governed by Rule 9014 and shall be submitted without oral argument unless the court otherwise directs.

(F) A certification of an appeal under 28 U.S.C. § 158(d)(2) shall be made in a separate document served on the parties.

(4) Certification on Court's Own Initiative.

(A) A certification of an appeal on the court's own initiative under 28 U.S.C. § 158(d)(2) shall be made in a separate document served on the parties in the manner required for service of a notice of appeal under Rule 8004. The certification shall be accompanied by an opinion or memorandum that contains the information required by subdivision (f)(3)(C)(i)-(iv) of this rule.

(B) A party may file a supplementary short statement of the basis for certification within 10 days after the certification.

Rule 8001 COMMITTEE NOTE

Subdivision (f) is added to the rule to implement the 2005 amendments to 28 U.S.C. § 158(d). That section authorizes appeals directly to the court of appeals, with that court's consent, upon certification that a ground for the appeal exists under § 158(d)(2)(A)(i)-(iii). Certification can be made by the court on its own initiative or in response to a request of a party. Certification also can be made by all of the appellants and appellees. An uncodified provision in Public Law No. 109-8, § 1233(b)(4), requires that, not later than 10 days after a certification is entered on the docket, there must be filed with the circuit clerk a petition requesting permission to appeal. Given the short time limit to file the petition with the circuit clerk, subdivision (f)(1) provides that entry of a certification on the docket does not occur until an effective appeal is taken under Rule 8003(a) or (b).

The rule adopts a bright-line test for identifying the court in which a matter is pending. Under subdivision (f)(2), the bright-line chosen is the "docketing" under Rule 8007(b) of an appeal of an interlocutory order or decree under 28 U.S.C. § 158(a)(2) or a final judgment, order or decree under 28 U.S.C. § 158(a)(1), or the granting of leave to appeal ~~an~~ any other interlocutory judgment, order or decree under 28 U.S.C. § 158(a)(3), whichever is earlier.

To ensure that parties are aware of a certification, the rule requires either that it be made on the Official Form (if being made by all of the parties to the appeal) or on a separate document (whether the certification is made on the court's own initiative or in response to a request by a party). This is particularly important because the rule adopts the bankruptcy practice established by Rule 8001(a) and (b) of requiring a notice of appeal in every instance, including interlocutory orders, of appeals from bankruptcy court orders, judgments, and decrees. Because this requirement is satisfied by filing the notice of appeal that takes the appeal to the district court or bankruptcy appellate panel in the first instance, the rule does not require a separate notice of appeal if a certification occurs after a district court or bankruptcy appellate panel decision.

Interim LR 8003. LEAVE TO APPEAL.

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(d) If leave to appeal is required by 28 U.S.C. § 158(a) and has not earlier been granted, the authorization of a direct appeal by a court of appeals under 28 U.S.C. § 158(d)(2) shall be deemed to satisfy the requirement for leave to appeal.

Rule 8003 COMMITTEE NOTE

The rule is amended to add subdivision (d) to solve the jurisdictional problem that could otherwise ensue when a district court or bankruptcy appellate panel has not granted leave to appeal under 28 U.S.C. § 158(a)(3). If the court of appeals accepts the appeal, the requirement of leave to appeal is deemed satisfied. However, if the court of appeals does not authorize a direct appeal, the question of whether to grant leave to appeal remains a matter to be resolved by the district court or the bankruptcy appellate panel.

Interim LR 9006. TIME.

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(b) ENLARGEMENT.

(1) In General. Except as provided in paragraphs (2) and (3) of this subdivision, when an act is required or allowed to be done at or within a specified period by these rules or by a notice given thereunder or by order of court, the court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if the request therefor is made before the expiration of the period originally prescribed or as extended by a previous order or (2) on motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect.

(2) Enlargement Not Permitted. The court may not enlarge the time for taking action under Rules 1007(d), 2003(a) and (d), 7052, 9023, and 9024.

(3) Enlargement Limited. The court may enlarge the time for taking action under Rules 1006(b)(2), 1007(c) with respect to the time to file schedules and statements in a small business case, 1017(e), 3002(c), 4003(b), 4004(a), 4007(c), 8002 and 9033, only to the extent and under the conditions stated in those rules.

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Rule 9006 COMMITTEE NOTE

Section 1116(3) of the Code, as amended in 2005, places specific limits on the time for filing schedules and a statement of affairs in small business cases. The rule is amended to recognize that extensions of time for filing these documents are governed by Rule 1007(c), which is amended to recognize restrictions on expanding the time to file these documents in small business cases.

Interim LR 9009. FORMS

The Official Forms prescribed by the Judicial Conference of the United States shall be observed and used with alterations as may be appropriate. Forms may be combined and their contents rearranged to permit economies in their use. The Director of the Administrative Office of the United States Courts may issue additional forms for use under the Code. The forms shall be construed to be consistent with these rules and the Code. References in the Official Forms to these rules shall include the Interim Rules approved by the Committee on Rules of Practice and Procedure to implement Public Law No. 109-8.

Rule 9009 COMMITTEE NOTE

The Official Forms refer to the Federal Rules of Bankruptcy Procedure. This rule is amended so that the reference to rules in the Official Forms includes the Interim Rules that implement the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (Public Law Number 109-8).

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