

UNITED STATES BANKRUPTCY COURT

DISTRICT OF NEW HAMPSHIRE

Local Bankruptcy Rules, Interim Bankruptcy Rules and Administrative Orders

Table of Contents

PART I COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF .....	1
LBR 1002-1 Petition — General .....	1
LBR 1004-1 Petition — Partnership .....	1
LBR 1004-2 Petition — Corporation .....	2
LBR 1004-3 Petition — Trust, Limited Liability Company .....	2
LBR 1007-1 Lists, Schedules and Statements .....	3
LBR 1007-2 Mailing — List or Matrix .....	5
LBR 1007-6 Filing of Educational Individual Retirement Accounts Pursuant to 11 U.S.C. § 521(c) .....	6
LBR 1007-7 Filing of Payment Advices Pursuant to 11 U.S.C. § 521(a)(1)(B)(iv) .....	6
LBR 1007-8 Automatic Dismissal Under 11 U.S.C. § 521(i)(1) .....	6
LBR 1009-1 Amendments to Lists and Schedules .....	6
LBR 1015-1 Joint Administration/Consolidation .....	8
LBR 1016-1 Death of Debtor .....	9
LBR 1017-2 Dismissal or Suspension — Case or Proceeding .....	9
LBR 1019-1 Conversion — Procedure Following .....	9
LBR 1050-1 Citation Format for Opinions Issued By This Court .....	9
LBR 1070-1 Jurisdiction .....	10
LBR 1074-1 Corporations — Identification of Parent Companies and Public Companies .....	10
PART II OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS .....	11
LBR 2002-1 Notice to Creditors and Other Interested Parties .....	11
LBR 2002-2 Notice to United States or Federal Agency .....	12

LBR 2014-1 Employment of Professionals.....	12
LBR 2014-2 Chapter 13 — Representation by Attorneys.....	13
LBR 2015-2 Debtor-in-Possession Duties .....	13
LBR 2015-5 Trustees — Chapter 13 .....	13
LBR 2016-1 Compensation of Professionals.....	13
LBR 2016-2 Hearings on Compensation of Professionals in Non-Chapter 11 Cases.....	16
LBR 2016-3 Hearings on Compensation of Professionals in Chapter 11 Cases.....	16
LBR 2016-4 Compensation of Petition Preparers.....	17
LBR 2070-1 Estate Administration.....	17
LBR 2083-2 Chapter 13 — Proof of Value of Real Estate; Proof of Insurance .....	17
LBR 2083-3 Chapter 13 — Requirements for Business Debtor.....	17
LBR 2090-1 Attorneys — Admission to Practice.....	18
LBR 2090-2 Attorneys — Discipline and Disbarment .....	18
LBR 2091-1 Attorneys — Withdrawals.....	19
 <b>PART III CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS .....</b>	 <b>19</b>
LBR 3001-1 Claims and Equity Security Interests — General; Electronic Filing of Claims.....	19
LBR 3001-2 Requests for Allowance of Administrative Expense Claims.....	20
LBR 3007-1 Claims — Objections.....	20
LBR 3012-1 Valuation of Collateral — Motions to Determine Secured Status and Void Wholly Unsecured Liens .....	20
LBR 3015-1 Chapter 13 — Plan .....	21
LBR 3015-3 Chapter 13 — Confirmation.....	22
LBR 3015-5 Chapter 13 — Modification of Plan After Confirmation .....	22
LBR 3016-1 Chapter 11 — Plan .....	23
LBR 3017-1 Disclosure Statement — Approval .....	23
LBR 3018-2 Acceptance/Rejection of Plans.....	24
LBR 3020-1 Chapter 11 — Confirmation.....	24
LBR 3022-1 Final Report/Decree (Chapter 11).....	25

PART IV THE DEBTOR: DUTIES AND BENEFITS .....	27
LBR 4001-1 Automatic Stay — Relief From.....	27
LBR 4001-2 Cash Collateral .....	28
LBR 4001-4 Motion to Incur Additional Debt to Acquire Motor Vehicle in Chapter 13 .....	30
LBR 4001-5 Motions to Extend the Stay .....	30
LBR 4002-1 Debtor — Duties.....	30
LBR 4002-2 Address of Debtor.....	31
LBR 4003-2 Lien Avoidance .....	31
PART V COURT AND CLERK .....	32
LBR 5001-2 Clerk — Office Location/Hours .....	32
LBR 5002-1 Register of Mailing Addresses .....	32
LBR 5003-4 Court Documents.....	32
LBR 5005-4 Electronic Filing.....	33
LBR 5005-5 Sealed Documents .....	33
LBR 5010-1 Reopening Cases .....	34
LBR 5011-1 Withdrawal of Reference .....	34
LBR 5071-1 Continuance .....	34
LBR 5072-1 Courtroom Decorum.....	34
LBR 5073-1 Photography, Recording Devices and Broadcasting .....	35
LBR 5075-1 Clerk — Delegated Functions; Designation of Parties to Provide Notice.....	36
LBR 5076-1 Court Reporting.....	36
LBR 5077-1 Transcripts.....	36
LBR 5080-1 Fees — General.....	37
LBR 5081-1 Fees — Form of Payment.....	37
PART VI COLLECTION AND LIQUIDATION OF THE ESTATE.....	37
LBR 6003-1 Applications to Employ Filed Within Twenty-One (21) Days of Petition .....	37
LBR 6004-1 Sale of Estate Property.....	38

LBR 6006-1 Executory Contracts.....	39
LBR 6007-1 Abandonment.....	39
<b>PART VII-A ADVERSARY PROCEEDINGS .....</b>	<b>39</b>
LBR 7003-1 Cover Sheet.....	39
LBR 7004-1 Service of Process.....	39
LBR 7004-2 Summons .....	40
LBR 7007-1 Motion Practice In Adversary Proceedings.....	40
LBR 7016-1 Pretrial Procedures.....	40
LBR 7016-2 Final Pretrial Statements.....	41
LBR 7016-3 Final Pretrial Conferences.....	42
LBR 7016-4 Altering Deadlines.....	42
LBR 7024-2 Claim of Unconstitutionality .....	43
LBR 7026-1 Discovery — General .....	43
LBR 7055-1 Default — Failure to Prosecute .....	44
LBR 7056-1 Summary Judgment .....	45
LBR 7064-1 Seizure of Person or Property.....	46
<b>PART VII-B MOTION PRACTICE GENERALLY .....</b>	<b>46</b>
LBR 7101 Motion Procedure .....	46
LBR 7102 Motion Content.....	47
LBR 7103 Certificate of Service — Motions.....	48
LBR 7104 Notice of Hearing .....	49
<b>PART VIII APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL.....</b>	<b>49</b>
LBR 8003-1 Notice of Appeal.....	49
LBR 8004-1 Motion for Leave to Appeal .....	50
LBR 8005-1 Election for District Court Determination of Appeal.....	50
LBR 8007-1 Stay Pending Appeal.....	50

PART IX	GENERAL PROVISIONS .....	50
LBR 9004-1	Papers — Requirements of Form.....	50
LBR 9004-2	Caption — Papers, General.....	51
LBR 9010-1	Attorneys — Notice of Appearance.....	51
LBR 9010-2	Power of Attorney; Guardians; Conservators.....	52
LBR 9011-2	<i>Pro Se</i> Parties.....	52
LBR 9011-3	Sanctions.....	52
LBR 9014-1	Contested Matters.....	53
LBR 9019-1	Settlements and Agreed Orders.....	53
LBR 9021-1	Judgments and Orders — Entry of.....	53
LBR 9029-1	Local Rules — General.....	53
LBR 9029-2	Local Rules — General Orders and Forms .....	54
LBR 9037	Redaction of Personal Identifiers .....	54
LBR 9070-1	Exhibits.....	55
LBR 9071-1	Stipulations; Affidavits of Noncompliance.....	55
LBR 9072-1	Orders — Proposed.....	55
LBR 9073-1	Hearings.....	56
LBR 9074-2	Telephonic Appearances and Hearings.....	56
INTERIM BANKRUPTCY RULES of the United States Bankruptcy Court for the District of New Hampshire .....		57
IBR 1007-1	Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion .....	58
IBR 5012	Communication and Cooperation With Foreign Courts and Foreign Representatives.....	59
ADMINISTRATIVE ORDERS of the United States Bankruptcy Court for the District of New Hampshire .....		60
AO 1006-1	Fees — Installment Payments .....	61
AO 1017-1	Dismissal of Chapter 13 Case Pre-Confirmation; Payment of Administrative Expenses.....	61
AO 2002-7	Implementation of Notice of Preferred Addresses Pursuant to 11 U.S.C. § 342(e) and (f) and National Creditor Registration Service.....	61

AO 2016-1	Fee and Expense Guidelines.....	62
AO 3012-1	Valuation of Personal Property and Non-Residential Real Property Collateral–Motions to Determine Secured Status and Limit Secured Claims.....	62
AO 3022-2	Chapter 11 – Motion to Administratively Close Individual Chapter 11 Case .....	63
AO 3070-7	Chapter 13 Pre-Confirmation Adequate Protection Payments.....	64
AO 4002-7	Procedures for Filing and Obtaining Tax Information Under 11 U.S.C. § 521 .....	64
AO 4008-1	Reaffirmation .....	66
AO 4008-2	Lease Assumption in Chapter 7 Cases.....	67
AO 5001-2	Location and Mailing Address of Clerk’s Office.....	67
AO 5005-4	Electronic Filing .....	67
AO 5005-6	Highly Sensitive Documents .....	70
AO 5073-1	Use of Electronic Devices in Courtrooms.....	70
AO 5073-2	Courtroom Technology.....	71
AO 5075-7	Debtors Asserting an Exception to the Limitation of the Automatic Stay Pursuant to 11 U.S.C. § 362(l) and Procedure for Receiving Rent Deposits .....	71
AO 5080-1	Fees — Request for Refund .....	71
AO 7008-1	Adversary Proceedings — Pleadings.....	72
AO 7012-1	Adversary Proceedings — Defenses and Objections .....	72
AO 9012-1	Compliance with the Servicemembers Civil Relief Act.....	72
AO 9027-1	Removal.....	73
AO 9033-1	Proposed Findings of Fact and Conclusions of Law.....	73
AO 9037-1	Redaction of Personal Identifiers.....	73
AO 9074-2	Telephonic Appearances.....	74

## **PART I      COMMENCEMENT OF CASE; PROCEEDINGS RELATING TO PETITION AND ORDER FOR RELIEF**

### **LBR 1002-1    Petition — General**

- (a) *Filing.* A petition commencing a case under the Bankruptcy Code shall be filed in the clerk's office or by electronic means as established by the court.
- (b) *Format.* A petition commencing a case shall conform substantially to the applicable Official Bankruptcy Form and shall be completed legibly in all respects. All information requested or provided for in the applicable Official Bankruptcy Form or by Bankruptcy Rule 1005 shall be completed by the petitioner. All petitions must be formatted to 8½" x 11" and will be accepted for filing if the information requested in the applicable Official Bankruptcy Form, Bankruptcy Rule 1005 and the following are included:
- (1) Filing fee.
  - (2) List of creditors in matrix format.
  - (3) In chapter 11 cases, in addition to the list required by Bankruptcy Rule 1007(d), a list of the twenty (20) largest unsecured creditors (excluding insiders) prepared in matrix format.

#### *Cross-References:*

- [28 U.S.C. § 1930](#) (*Bankruptcy Fees*)
- [LBR 1004-1](#) (*Petition — Partnership*)
- [LBR 1004-2](#) (*Petition — Corporation*)
- [LBR 1004-3](#) (*Petition — Trust, Limited Liability Company*)
- [LBR 1007-2](#) (*Mailing — List or Matrix*)
- [LBR 2016-1](#) (*Compensation of Professionals*)
- [LBR 5005-4](#) (*Electronic Filing*)
- [LBR 5080-1](#) (*Fees — General*)
- [LBR 5081-1](#) (*Fees — Form of Payment*)
- [AO 1006-1](#) (*Fees — Installment Payments*)
- [AO 5005-4](#) (*Electronic Filing*)
- [LBF 1007-2](#) (*Verification of Creditor Mailing List*)

### **LBR 1004-1    Petition — Partnership**

- (a) *Separate Entity Requirement.* No case shall be commenced by filing a petition referring to both the individual partner and the partnership. If separate filings are intended by an individual partner or partners as well as the partnership, separate petitions are required by each entity.
- (b) *Necessity of Retaining Counsel.* No case shall be commenced by filing a petition if the debtor is a partnership unless the debtor is represented by an attorney who has signed the petition. An involuntary case may not be commenced if a petitioning creditor is a partnership unless the petitioner is represented by an attorney who has signed the petition.

*Cross-References:*

[LR 83.6](#) (*Appearances*)

[LBR 1004-2](#) (*Petition — Corporation*)

[LBR 1004-3](#) (*Petition — Trust, Limited Liability Company*)

[LBR 1007-1](#) (*Lists, Schedules and Statements*)

[LBR 9011-2](#) (*Pro Se Parties*)

[AO 5005-4](#) (*Electronic Filing/Signatures and Declarations Regarding Electronic Filing*)

## **LBR 1004-2 Petition — Corporation**

- (a) *Separate Entity Requirement.* No case shall be commenced by filing a petition by an individual or other entity doing business as a corporation. A separate petition must be filed by each entity.
- (b) *Necessity of Retaining Counsel.* No case shall be commenced by filing a petition if the debtor is a corporation unless the debtor is represented by an attorney who has signed the petition. An involuntary case may not be commenced if a petitioning creditor is a corporation unless the petitioner is represented by an attorney who has signed the petition.
- (c) *Corporate Resolution.* No case shall be commenced by filing a petition if the debtor is a corporation unless the petition is accompanied by a corporate resolution or certificate of corporate vote that authorizes the filing of the bankruptcy petition.

*Cross-References:*

[LR 83.6](#) (*Appearances*)

[LBR 1004-1](#) (*Petition – Partnership*)

[LBR 1004-3](#) (*Petition — Trust, Limited Liability Company*)

[LBR 1007-1](#) (*Lists, Schedules and Statements*)

[LBR 9011-2](#) (*Pro Se Parties*)

[AO 5005-4\(d\)](#) (*Electronic Filing/Signatures and Declarations Regarding Electronic Filing*)

## **LBR 1004-3 Petition — Trust, Limited Liability Company**

- (a) *Separate Entity Requirement.* No case shall be commenced by filing a petition referring to both a trust and the individual trustee or referring to both a limited liability company and its principal. If separate filings are intended by an individual trustee as well as the trust or by a limited liability company as well as its principal, separate petitions are required by each entity.
- (b) *Necessity of Retaining Counsel.* No case shall be commenced by filing a petition if the debtor is a trust or limited liability company unless the debtor is represented by an attorney who has signed the petition. An involuntary case may not be commenced if a petitioning creditor is a trust or limited liability company unless the petitioner is represented by an attorney who has signed the petition.

*Cross-References:*

[LR 83.6](#) (*Appearances*)

[LBR 1004-1](#) (*Petition — Partnership*)

[LBR 1004-3](#) (*Petition — Trust, Limited Liability Company*)

[LBR 1007-1](#) (*Lists, Schedules and Statements*)

[LBR 9011-2](#) (*Pro Se Parties*)

[AO 5005-4](#) (*Electronic Filing/Signatures and Declarations Regarding Electronic Filing*)



## **LBR 1007-1 Lists, Schedules and Statements**

- (a) *Form.* All schedules and statements shall conform substantially to the Official Bankruptcy Forms included in the Bankruptcy Rules and shall be completed legibly in all respects. If the appropriate entry is “none,” then that should be indicated. In each of Schedules D, E/F and H, creditors shall be listed in alphabetical order by name, with complete address including the ZIP code, except that secured creditors on Schedule D may be grouped according to the collateral involved if multiple liens on particular assets are involved. Where required by the form, include the last four digits of the account number. In individual cases, Schedules A/B through J must be filed. In all other cases, Schedules A/B and D through H must be filed.
- (b) *Filing of Schedules and Statements.* Collate in the following sequence:
- (1) Petition.
  - (2) Statement of Financial Affairs.
  - (3) Schedules A/B through J.
  - (4) Applicable version(s) of Official Bankruptcy Forms 122A, B, or C, including the Means Test Calculation and Calculation of Your Disposable Income, if appropriate.
  - (5) Summary of Assets and Liabilities.
  - (6) Declaration About Schedules.
  - (7) Disclosure of Compensation of Attorney for Debtor Pursuant to Bankruptcy Rule 2016(b).
  - (8) Statement of Intention for Individuals Filing Under Chapter 7, if appropriate.
  - (9) List of Creditors Who Have the 20 Largest Unsecured Claims and Are Not Insiders in Chapter 9 or 11 Cases, if appropriate.
  - (10) Any other documents required by paragraphs (f) through (h) of this rule.
  - (11) Verification of Creditor Mailing List with list of creditors in matrix format attached.
- (c) *Paper Copies.* The debtor must bring a paper copy of the signed petition, schedules, statements and lists to the meeting of creditors so that the trustee may use the paper copy to examine the debtor.
- (d) *Certificate of Credit Counseling.* An individual debtor under chapter 7, 11, 12 or 13, in addition to indicating on the petition that credit counseling has been obtained, shall file a separate certification from an approved credit counseling agency indicating that said credit counseling has been completed.
- (e) *Statement About Social Security Number.* An individual debtor shall submit, at the time of filing the voluntary petition, a verified statement that sets out the debtor’s Social Security number. If the petition is not filed electronically, then the debtor shall submit the statement on Official Bankruptcy Form 121. If the petition is filed electronically, then the debtor shall make the statement on *LBF 5005-4*, the Declaration Regarding Electronic Filing, which must be submitted to the court within seven (7) days. If the debtor does not have a Social Security number, then the debtor shall file Official Bankruptcy Form

121 and so indicate.

- (f) *Filing Copy of Debtor's Organization Documents.* Whenever a debtor is organized as a trust or as a limited liability company, the debtor shall file with its bankruptcy schedules a copy of its organizational documents together with all amendments, with a copy served upon any trustee and counsel to any official committee in the case.
- (g) *Filing of List of Inventories and Equipment.* Whenever inventory or business equipment is scheduled in a chapter 7 case, the debtor shall comply with the requirements of *LBR 4002-1(c)* and *(d)*.
- (h) *Failure to Timely File Schedules.* If the debtor fails to file all schedules and statements required by Bankruptcy Rule 1007, and no extension of time has been requested or granted, then the court may issue an order to show cause or a notice why the case should not be dismissed for failure to timely file the required schedules and statements, unless the provisions of 11 U.S.C. § 521(i) apply, in which event the case may be dismissed in accordance with *LBR 1007-8*.
- (i) *Motions to Extend Time to File Schedules.* The following procedures shall govern the filing of motions to extend the time to file schedules and statements:
- (1) *Timeliness.* A motion for extension of time shall be filed before the expiration of the period originally prescribed by the Bankruptcy Rules or as extended by a previous order. A copy of the motion should be served by the debtor upon the United States Trustee, any trustee and all members of any official committee appointed by the United States Trustee.
  - (2) *Content of Motion.* All motions for extension of time shall state:
    - (A) The specific date requested.
    - (B) Whether previous applications for extensions of time on the matter have been requested, including the number and length of previous extensions.
    - (C) Whether the opposing party or parties in interest agree or object to the requested extension.
  - (3) *Proposed Order.* A proposed order shall accompany the motion.
- (j) *Extension Granted for Filing Schedules.* Generally, debtors are not granted an extension of the time for filing schedules and statements to a date after the first date scheduled for the § 341 meeting of creditors. If the debtor is granted an extension of the time for the filing of schedules and statements, and the time for filing occurs after the first date scheduled for the § 341 meeting of creditors, then the debtor shall appear at said meeting on the scheduled date, unless the debtor has previously reached an agreement with the case trustee not to appear, and obtain the agreement of the United States Trustee or the case trustee for a continued meeting to a date after the required papers are to be filed.

*Cross-References:*

[LBR 1002-1](#) (*Petition — General*)

[LBR 1007-2](#) (*Mailing — List or Matrix*)

[LBR 4002-1](#) (*Debtor — Duties*)

[LBR 5005-4](#) (*Electronic Filing*)

[AO 5005-4](#) (*Electronic Filing*)

[LBF 5005-4](#) (*Declaration Regarding Electronic Filing*)

## **LBR 1007-2 Mailing — List or Matrix**

- (a) *List and Verification.* The debtor or the debtor's attorney shall prepare and submit, at the time the petition is filed, a master address list in the matrix form specified herein which contains the names, addresses and ZIP codes of all creditors and parties in interest in alphabetical order, accompanied by a statement in the form of *LBF 1007-2*. The list of creditors shall be filed in PDF format as an attachment to the petition, schedules and statements. In addition, the list of creditors shall also be saved in .txt format for uploading into the court's CM/ECF system.
- (b) *Format.* The list of creditors shall be formatted as follows:
- (1) Lists must be left justified and typed in a single column with no stray marks, page numbers or debtor names.
  - (2) Use legible font.
  - (3) Lists must be no closer than one inch from any edge of the paper.
  - (4) Each name/address must consist of no more than five (5) total lines, with at least one blank line between each of the name/address blocks.
  - (5) Each line must be no more than forty-five (45) characters in length.
  - (6) Do not include the following parties on the list of creditors: debtor, joint debtor, debtor's attorney and United States Trustee.
  - (7) Do not include account numbers.
  - (8) Name and address lines should contain upper- and lower-case letters.
  - (9) Attention lines must appear on the second line of the address block.
  - (10) ZIP codes should appear normally at the end of the last line.

An example of the approved list of creditors in matrix format is set forth below:

ABC Corporation  
ATTN: Comptroller  
1234 Main Street  
Boston, MA 02109-1782

First City Nat'l Bank  
of Beaumont  
PO Box 3391  
Beaumont, TX 77704-0965

Flex Northwest  
1540 NW 46th Street  
Seattle, WA 98372-6578

*Cross-Reference:*

[LBR 1007-2](#) (*Verification of Creditor Mailing List*)

### **LBR 1007-6 Filing of Educational Individual Retirement Accounts Pursuant to 11 U.S.C. § 521(c)**

A record of any interest that a debtor has in an education individual retirement account or under a qualified state tuition program: (1) shall not be filed with the court unless otherwise ordered, and (2) shall be provided to the trustee in accordance with 11 U.S.C. § 521(c).

### **LBR 1007-7 Filing of Payment Advices Pursuant to 11 U.S.C. § 521(a)(1)(B)(iv)**

Copies of all payment advices or other evidence of payment received within sixty (60) days before the date of the filing of the petition by the debtor from any employer of the debtor: (1) shall not be filed with the court unless otherwise ordered, and (2) shall be provided to the trustee in accordance with 11 U.S.C. § 521(a)(1)(B)(iv).

### **LBR 1007-8 Automatic Dismissal Under 11 U.S.C. § 521(i)(1)**

- (a) *Required Documents.* If a debtor fails to file all documents required to be filed with the court in accordance with 11 U.S.C. § 521(a)(1), and any extension of the deadline for filing such documents within the meaning of 11 U.S.C. § 521(i)(3) has passed, the debtor's case shall be dismissed pursuant to 11 U.S.C. § 521(i)(1), and the clerk shall issue a notice of dismissal indicating the same.
- (b) *Payment Advices.* If a debtor fails to submit payment advices required to be submitted to the trustee in accordance with 11 U.S.C. § 521(a)(1)(B)(iv) and *LBR 1007-7*, and any extension of the deadline for filing such documents within the meaning of 11 U.S.C. § 521(i)(3) has passed, the debtor's case shall be dismissed pursuant to 11 U.S.C. § 521(i)(1) upon the trustee filing a notice of noncompliance with 11 U.S.C. § 521(a)(1)(B)(iv) and *LBR 1007-7*, and the clerk shall issue a notice of dismissal indicating the same.

### **LBR 1009-1 Amendments to Lists and Schedules**

- (a) *Generally.* No petition may be amended to add an additional entity as a debtor after the petition has been filed with the clerk.
- (b) *Form.* An amendment must be filed as a separate document titled Notice of Amendment. The Notice of Amendment must contain the following:
- (1) A caption including the case name, case number, judge's initials and chapter.
  - (2) A statement identifying the schedule, statement or other document being amended.
  - (3) The purpose of the amendment, which shall specifically state the change being made to the document being amended.
  - (4) The date of the amendment.

- (5) The debtor's signature (if electronically filed, a Declaration Regarding Electronic Filing in the form of LBF 5005-4 must be forwarded to the clerk's office within seven (7) days of the filing of the amendment).

(c) *Additional Documents.* The Notice of Amendment must be accompanied by the following documents:

- (1) An amendment cover sheet in the form of *LBF 1009-1A*.
- (2) In case of an amendment to schedules or statements, a complete copy of the schedule or statement as amended. In the case of an amendment to any schedule of liabilities, each debt newly listed must also state when such debt was incurred and contain the last four digits of the account number. Additionally,
  - (A) In the case of an amendment to Schedule I, a complete copy of the schedule, as amended, as well as a complete copy of Schedule J that conforms to the amended Schedule I must be filed.
  - (B) In the case of an amendment to Schedule J, a complete copy of the schedule, as amended, as well as a complete copy of Schedule I must be filed.
- (3) The Summary of Assets and Liabilities in the case of an amendment to Schedules A/B, D, E/F, I, J, or Official Bankruptcy Form 122A, B, or C.
- (4) A supplement to the list of creditors that shall include the names and the addresses of the creditors added, or whose names and addresses have been changed by the amendment, which supplement shall conform to the requirements of *LBR 1007-2*.
- (5) A certificate of service by the debtor or the debtor's attorney stating that notice has been given as required by Bankruptcy Rule 1009 and paragraph (f) of this rule.

(d) *Filing of Amendment.* When filing an amendment, the documents should be collated in the following sequence:

- (1) Amendment Cover Sheet on *LBF 1009-1A*.
- (2) Notice of Amendment.
- (3) List of Newly Added Creditors substantially in the form of *LBF 1007-2*, if applicable.
- (4) Complete copy of schedule or statement as amended.
- (5) Summary of Assets and Liabilities, if applicable.
- (6) Notice to Additional Creditors on *LBF 1009-1B*, if applicable
- (7) Certificate of service.

(e) *Filing Fee.* When filing an amendment, the debtor shall pay the required filing fee, if any.

(f) *Notice to Affected Parties.* Any amendments to the debtor's schedules must be served on all affected

creditors, any trustee, counsel to any creditors' committee and the United States Trustee by the debtor or the debtor's attorney at the same time as they are filed with the clerk, and shall comply further with this rule regarding form and notice. Where the debtor adds creditors to the case by supplementing either the schedules or the list of creditors previously filed, the debtor shall serve upon each newly-listed creditor a copy of the following:

- (1) The Notice of Amendment.
- (2) The Notice of Bankruptcy Case (commonly referred to as the § 341 notice) and a Notice to Added Creditors in the form of *LBF 1009-1B* extending deadlines granted by the original § 341 notice.
- (3) The order granting discharge, if any.
- (4) Any other filed document affecting the rights of said creditor.

*Cross-References:*

[28 U.S.C. § 1930](#) (*Bankruptcy Fees*)

[LBR 1007-2](#) (*Mailing — List or Matrix*)

[LBR 5005-4](#) (*Electronic Filing*)

[LBR 5080-1](#) (*Fees — General*)

[LBR 5081-1](#) (*Fees — Form of Payment*)

[AO 5005-4](#) (*Electronic Filing*)

[LBF 1009-1A](#) (*Amendment Cover Sheet*)

[LBF 1009-1B](#) (*Notice to Added Creditors*)

[LBF 5005-4](#) (*Declaration Regarding Electronic Filing*)

### **LBR 1015-1 Joint Administration/Consolidation**

- (a) *Related Cases.* Whenever related cases are filed, but not consolidated or jointly administered by order of the court, any pleading or other document intended to be filed in both cases must be filed in each case as a separate original document. Failure to comply with this rule may result in the pleading being denied without prejudice.
- (b) *Jointly Administered or Consolidated Cases.* Whenever, upon motion of a debtor or other party in interest, the court orders that related cases be jointly administered or consolidated pursuant to Bankruptcy Rule 1015, subsequent to the entry of such order, all further papers shall be filed in the chief case with which a related case or cases have been consolidated or in which joint administration has been directed, and only the docket for that case shall be maintained.
- (c) *Proofs of Claim.* Notwithstanding the provisions in paragraph (b) above, proofs of claim or any associated transfers of claim in jointly administered cases shall be filed in the cases to which they pertain unless otherwise ordered by the court.

*Cross-Reference:*

[LBR 9004-2](#) (*Caption — Papers, General*)

## **LBR 1016-1 Death of Debtor**

- (a) *Statement of Death.* If a debtor dies while the debtor's case is pending, debtor's counsel or the joint debtor shall file a statement advising the court of the debtor's death. If the debtor's case is pending under chapter 11, chapter 12, or chapter 13, the statement must indicate whether the debtor's case should proceed as permitted by Bankruptcy Rule 1016.
- (b) *Motions Waiving Certain Requirements.* If a debtor's case will proceed after the debtor's death, debtor's counsel or the joint debtor shall file any and all motions that are necessary to ensure that the case may proceed and be concluded, so far as possible, as though the death had not occurred.
- (c) *Waiver of Financial Management Course.* A motion seeking waiver of the requirement to take a financial management course is not required as long as a statement of death has been filed pursuant to subsection (a).

## **LBR 1017-2 Dismissal or Suspension — Case or Proceeding**

The court may at any time issue an order to show cause why a case, adversary proceeding or motion should not be dismissed or denied for lack of prosecution. If good cause is not shown within the time prescribed by the show cause order, then the court may enter an order of dismissal or denial, with or without prejudice, as the court may deem appropriate.

## **LBR 1019-1 Conversion — Procedure Following**

- (a) *Effect on Scheduled Hearings Other Than Motions for Relief from the Automatic Stay.* Except with regard to motions for relief from the automatic stay, whenever an order or a notice issues converting a case from another chapter to chapter 7, the effect of such order or notice shall be to cancel any and all scheduled hearings on pending motions, unless otherwise ordered by the court. A notice shall routinely issue by the clerk to this effect upon conversion to chapter 7. It shall be the burden of the movant in such matters to act affirmatively to reschedule such hearings, if appropriate, in the chapter 7 case at a time subsequent to such time as the interim trustee in chapter 7 has had an opportunity to examine the debtor at a meeting pursuant to § 341 of the Bankruptcy Code. If the motion is not so rescheduled by the movant or the plaintiff within thirty (30) days after conversion, then it will be deemed denied without prejudice without further action of the court.
- (b) *Effect on Scheduled Hearings on Motions for Relief from the Automatic Stay.* In the event a motion for relief from the automatic stay is pending as of the time an order or notice issues converting a case from another chapter to chapter 7, the motion for relief from stay shall be heard at the date and time scheduled by the court prior to conversion.
- (c) *Notice of Unpaid Claims.* In the event that the debtor files a notice of unpaid claims pursuant to Bankruptcy Rule 1019, the trustee may request that the court set a deadline for the filing of administrative claims, notice of said deadline to be provided to identified claim holders by the trustee, unless otherwise ordered by the court.

## **LBR 1050-1 Citation Format for Opinions Issued By This Court**

- (a) *Reported Opinions.* Opinions that are reported in the Bankruptcy Reporter, Bankruptcy Court Decisions

or other reporter shall be cited using the citation format for such reporter suggested in The Bluebook, e.g., In re Grant, 242 B.R. 800, 801 (Bankr. D.N.H. 2000).

- (b) *Unreported Opinions*. Unreported opinions are opinions that have not been released for publication in printed reports. An opinion is issued in unreported form where, in the view of the judge issuing the opinion, the opinion does not articulate a new rule of law, modify an established rule, apply an established rule to novel facts, or otherwise serve as a significant guide to future parties and litigants. While unreported opinions may be cited by parties and litigants in unrelated cases in the form described in paragraphs (c) or (d), their precedential value may be limited.
- (c) *Unreported Opinions Published on the Court's Web Site and Issued After January 1, 1999*. Unreported opinions that are issued after January 1, 1999, shall be cited using the four-digit year in which the opinion was issued, the letters "BNH," the three-digit opinion number located on the top of the opinion and, where reference is made to specific material within the opinion, the page number, e.g., In re Hellesen, 1999 BNH 002, 3.
- (d) *Unreported Opinions Not Published on the Court's Web Site*. Unreported opinions that are not published on the court's web site shall be cited using the citation form for unreported decisions suggested in The Bluebook, e.g., Galloway v. True (In re True), Bk. No. 96-11447-MWV, Adv. No. 96-1093-MWV, slip. op. at 3 (Bankr. D.N.H. Aug. 22, 1997).

#### **LBR 1070-1 Jurisdiction**

All initiating motions and complaints shall include, at the outset, a statement of the jurisdiction of the bankruptcy court pursuant to the applicable provisions of 28 U.S.C. §§ 157 and 1334. The jurisdictional statement shall include an allegation as to whether the matter is a "core" or "noncore" matter pursuant to 28 U.S.C. § 157. The motion or complaint shall also include a statement that the pleader does or does not consent to entry of final orders or judgments by the bankruptcy court.

*Cross-Reference:*

[LBR 9004-1](#) (*Papers — Requirements of Form*)

#### **LBR 1074-1 Corporations — Identification of Parent Companies and Public Companies**

- (a) *Purpose*. The purpose of this rule is to assist the judges in making a determination as to whether they have any relationship with or interest in any company related to a debtor or party in interest that would disqualify the judge from participating in any proceeding in this court.
- (b) *Definition of Company*. For the purposes of this rule, "company" means any entity as defined in 11 U.S.C. § 101 which is not an individual, governmental unit or United States Trustee, and includes, but is not limited to, corporations, partnerships, limited liability companies, limited liability partnerships, estates and trusts.
- (c) *Debtors*. Consistent with any requirement under Bankruptcy Rule 1007(a)(1), any company that is a debtor in this court shall file a statement identifying all of its parent companies and listing any publicly held company that owns ten percent (10%) or more of the interests in the debtor or the debtor's equity securities. The debtor shall file the statement with its petition at the commencement of the case and



shall supplement such statement within a reasonable time following any change of the information.

- (d) *Adversary Proceedings.* Consistent with any requirement under Bankruptcy Rule 7007.1, any company, other than a debtor, that is a party to an adversary proceeding in this court shall file a statement identifying all of its parent companies and listing any publicly held company that owns ten percent (10%) or more of the interests in the party or the party's equity securities. A party shall file the statement with its initial pleading filed in the court and shall supplement such statement within a reasonable time following any change of the information.
- (e) *Contested Matters.* Any company, other than a debtor, that is involved in a contested matter in this court, either as a movant, an objecting party or a respondent, shall file a statement identifying all of its parent companies and listing any publicly held company that owns ten percent (10%) or more of the interests in the company or the company's equity securities. The movant or objecting party shall file the statement with its initial pleading filed in the court and shall supplement such statement within a reasonable time following any change of the information. The respondent shall file the statement with its responsive pleading filed in the court and shall supplement such statement within a reasonable time following any change of the information. Contested matters, for purposes of this rule, include but are not limited to: (1) applications to employ professionals; (2) objections to exemptions; (3) objections to use of cash collateral; (4) objections to proposed sale, use or lease of property; (5) motions for relief; (6) objections to motions to avoid liens; (7) objections to claims; (8) objections to disclosure statements; (9) objections to confirmation; and (10) applications for compensation.
- (f) *Exception.* Notwithstanding the provisions of sections (c) through (e) of this rule, a company shall file only one statement in each proceeding in this court (i.e., bankruptcy case, adversary proceeding and contested matter) unless there is any change of the information, in which case the company shall supplement its statement within a reasonable time following such change.

## **PART II OFFICERS AND ADMINISTRATION; NOTICES; MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS AND ACCOUNTANTS**

### **LBR 2002-1 Notice to Creditors and Other Interested Parties**

- (a) *Generally.* If notice is required by the Bankruptcy Rules to be served on all creditors and parties in interest, the clerk, upon advance request, shall provide the moving party with a copy of the list of creditors for the case. The list of creditors is also available via the CM/ECF system.
- (b) *Parties to Receive Notice.* In all cases, notice shall be sent pursuant to *LBR 5075-1* and, in addition, to any other parties as may be required by the Bankruptcy Code, the Bankruptcy Rules, the *LBRs* and the *AOs* of this court.
- (c) *Service in Adversary Proceedings and Contested Matters.* Service in all adversary proceedings shall be made in accordance Bankruptcy Rule 7004, and service in all contested matters shall be made as required by Bankruptcy Rule 9014(b).
- (d) *Method of Service.* Service of all pleadings and orders shall be by first class mail or electronic means unless otherwise provided by the Bankruptcy Rules, the *LBRs* or ordered by the court.

*Cross-References:*

[LBR 1007-2](#) (*Mailing — List or Matrix*)

[LBR 5002-1](#) (*Register of Mailing Addresses*)

[LBR 5075-1](#) (*Clerk — Delegated Functions; Designation of Parties to Provide Notice*)

## **LBR 2002-2 Notice to United States or Federal Agency**

- (a) *Generally.* Bankruptcy Rule 2002 governs notice to the United States of America or a subdivision thereof.
- (b) *Adversary Proceedings and Contested Matters.* Bankruptcy Rule 7004 governs service of process upon the United States of America in adversary proceedings and contested matters.

*Cross-Reference:*

[LBR 5002-1](#) (*Register of Mailing Addresses*)

## **LBR 2014-1 Employment of Professionals**

- (a) *Ex Parte Applications.* The court will ordinarily approve the employment of a professional person on an *ex parte* basis, if employment is on a general retainer basis.
- (b) *Contingent Hearing Necessary.* Applications for employment that disclose a fee arrangement where the fee is payable on a flat, fixed percentage, or contingent basis must be noticed for a contingent hearing. The court may grant such applications without a hearing, provided that the following conditions are met:
- (1) No objections have been filed.
  - (2) The application meets all of the requirements of the Bankruptcy Code and Rules and complies with all provisions of the *LBRs*.

*Exception:* An application to employ an accountant to prepare a tax return for a fee of no more than \$600 requires no hearing and may be approved *ex parte*.

- (c) *Alternative Fee Provisions.* The court has discretion to authorize retention with alternative provisions for fees, subject to the proviso in § 328 of the Bankruptcy Code where such terms and conditions subsequently prove to be “improvident” as therein defined. If such alternative provisions are requested, a hearing shall be held to establish the need for the alternative method of retention.
- (d) *Timing.* Pursuant to Bankruptcy Rule 6003(a) and *LBR 6003-1*, the court will not approve any application to employ a professional person within twenty-one (21) days after the filing of the petition except to the extent that relief is necessary to avoid immediate and irreparable harm.

*Cross-References:*

[LBR 2016-1](#) (*Compensation of Professionals*)

[LBR 6003-1](#) (*Applications to Employ Filed Within Twenty-One (21) Days of Petition*)

[AO 2016-1](#) (*Fee and Expense Guidelines*)

## **LBR 2014-2 Chapter 13 — Representation by Attorneys**

An attorney, who represents a debtor at the time a petition under chapter 13 is filed or when a case under another chapter of the Bankruptcy Code is converted to chapter 13, has a continuing duty to represent the debtor in all matters until the occurrence of the earliest of:

- (a) Dismissal of the case.
- (b) Entry of an order allowing the attorney to withdraw from further representation of the debtor.
- (c) Closing of the case.

### *Cross-References*

[LBR 2016-1](#) (*Compensation of Professionals*)

[LBR 2091-1](#) (*Attorneys — Withdrawals*)

## **LBR 2015-2 Debtor-in-Possession Duties**

- (a) *Filing of Monthly Reports.* Except as otherwise provided in a chapter 11 case, the debtor, or if a chapter 11 trustee has been appointed, the chapter 11 trustee, shall file with the clerk monthly operating reports completed in accordance with the United States Trustee's Operating Guidelines and Reporting Requirements for Chapter 11 Cases. The monthly operating reports shall be filed until the earlier of (1) the entry of a final decree in the chapter 11 case, or (2) the conversion or dismissal of the case pursuant to 11 U.S.C. § 1112.
- (b) *Relief from Filing Requirement.* After notice and a hearing, the court may excuse compliance with the filing requirement imposed by (a) above or may authorize the debtor or the chapter 11 trustee, as applicable, to file monthly operating reports that do not contain all of the data or information otherwise required by the United States Trustee's Operating Guidelines and Reporting Requirements for Chapter 11 Cases.

## **LBR 2015-5 Trustees — Chapter 13**

- (a) *Dismissed or Converted Cases.* When a case has been dismissed or converted to another chapter, the trustee shall follow United States Trustee guidelines by filing a Final Report and Account with the court.
- (b) *Completed Cases.* When the trustee determines that the plan has been completed, the trustee may file an Interim Report and Account with the court. A Final Report and Account shall be filed with the court in accordance with United States Trustee guidelines, which indicates that the case is ready to be closed.
- (c) *Closing Cases.* In accordance with the provisions of 11 U.S.C. § 350(a) and Bankruptcy Rule 5009(a), a debtor's bankruptcy case will not be closed until at least thirty (30) days after the Final Report and Account is filed with the court.

## **LBR 2016-1 Compensation of Professionals**

- (a) *Scope of Rule.* This rule shall apply to all applications for compensation filed by any professional

person including, but not necessarily limited to, attorneys, accountants, appraisers, financial consultants and brokers.

(1) Exceptions to this rule's requirements concerning submission of detailed statements, timekeeping, billing summaries or other matters may be sought when the application for retention is filed. For example, a professional whose compensation is subject to application and review may indicate an inability to comply with the requirements of this rule or request an exception based upon the terms of employment or common practice (e.g., percent commission or compensation measured other than by time) and may, therefore, seek an exception to one or more provisions of this rule. Such exceptions will be considered prospectively only and will be granted only to the extent not inconsistent with the policies underlying the monitoring and review of professional compensation.

(2) If the total fee for the debtor's attorney in a case under chapter 13 is less than or equal to the guidelines prescribed in *AO 2016-1*, the statement required by *LBR 2016-1(b)* is sufficient, and it is unnecessary for such attorney to file any itemized application for compensation unless ordered to do so by the court.

(b) *Rule 2016 Statement and Supplement.* At the same time the bankruptcy petition is filed, the debtor's attorney shall file a statement disclosing compensation paid or promised to the debtor's attorney as required by Bankruptcy Rule 2016. The amount of any retainer received by the debtor's attorney shall be included in the attorney compensation statement, and the statement shall provide the scope of services to be rendered. If, subsequent to the time the Rule 2016 statement is filed, the debtor's attorney has provided or agreed to provide additional services to the debtor, the debtor's attorney shall file a supplement to the Rule 2016 statement in the form of *LBF 2016-1C* disclosing such additional services and compensation.

(c) *Retainers.* All retainers, whether received from the debtor or from any other source for the benefit of the debtor or for the benefit of an appointed trustee or committee, shall be held in a segregated account or attorney's client trust account if the retainer is received by a professional person whose retention is subject to approval by the court on account of services rendered or to be rendered. Retainers held pursuant to this rule are to be held for the benefit of the bankruptcy estate, as opposed to the benefit of any other person, entity or program, until such time as an order for their disposition issues. None of the retainer held pursuant to this rule shall be withdrawn except upon an order by the court.

(d) *Preparation of Application.* All professional persons whose compensation is subject to approval by the court must file an application for compensation unless excepted from such requirement by the provisions of this rule or by an order of the court.

(1) It is the responsibility of a trustee or debtor in possession to prepare and file the application for compensation and expenses of a non-attorney professional employed by the trustee or the debtor in possession after receiving and reviewing the statement or invoice of the professional involved.

(2) Any attorney who proposes to charge a debtor more than the amount specified in *AO 2016-1* shall file an application for compensation in accordance with this rule.

(e) *Application Form.* All applications for allowances to attorneys, accountants and other professionals retained by order of the court for reasonable services rendered or reimbursement of necessary expenses

incurred shall:

- (1) Include Annex 1 — Request for Final Fee and Expense Award (see *LBF 2016-1A*) or Annex 2 — Request for Interim Fee and Expense Allowance (see *LBF 2016-1B*) giving a recap of pertinent data.
- (2) In addition to the requirements set forth in the Bankruptcy Code and Bankruptcy Rule 2016(a), the application proper shall contain the following other information:
  - (A) The date of the order approving employment or appointment.
  - (B) In concise form, a general narrative statement of the nature of the services provided, including the results obtained, total amount of compensation sought and any other matters which will assist the court in determining the reasonable value of such services.
  - (C) A time sheet based upon records prepared contemporaneously with the services rendered setting forth:
    - (i) The dates the services were rendered.
    - (ii) A description of services in sufficient detail to enable the court to find that such services were actual and necessary.
    - (iii) The total billable hours spent rendering such services and the total billable hours expended in rendering such services broken down among timekeepers.
    - (iv) The identity of the person or persons rendering such services.
    - (v) The billing rate for each of said persons providing services and a total of the amount of time spent by each person.
    - (vi) The total compensation sought by each person providing the services.
    - (vii) Any maximum compensation fixed in the order of appointment.
  - (D) In a chapter 11 case, the debtor in possession (or any chapter 11 trustee) shall prepare, file and serve a form of notice summarizing all pending applications for compensation to be used in giving notice of any hearing on fee and expense requests before the same may be heard and acted upon. The notice shall be a single notice covering all pending fee applications and shall include a cumulative total of all interim compensation allowances and expense reimbursements in the case prior to the pending applications.

*(f) Expenses.*

- (1) Every application for professional compensation shall set forth with specificity all disbursements for which reimbursement is sought.
- (2) Applications may seek only reimbursement for actual, necessary expenses.
- (3) Reimbursement of expenses is not intended to provide a “profit” to the applicant. Where the

professional is seeking compensation based upon the customary compensation charged by comparably skilled practitioners in cases other than cases under the Bankruptcy Code, reimbursement of expenses is not intended to cover overhead expenses normally included within the amount of such compensation.

- (4) Every applicant seeking compensation must be prepared to demonstrate that all expenses for which reimbursement is sought are actual and necessary. However, absent an objection by a party in interest or unless ordered to do so by the court, any applicant may seek reimbursement of expenses up to the amounts specified in the guidelines adopted by the court in *AO 2016-1* without demonstrating the actual unit costs of such expenses.

*Cross-References:*

[LBR 1007-1](#) (*Lists, Schedules and Statements*)

[LBR 2014-1](#) (*Employment of Professionals*)

[AO 2016-1](#) (*Fee and Expense Guidelines*)

[LBF 2016-1A](#) (*Annex 1 — Request for Final Fee and Expense Award*)

[LBF 2016-1B](#) (*Annex 2 — Request for Interim Fee and Expense Award*)

[LBF 2016-1C](#) (*Supplement to Bankruptcy Rule 2016(b) Statement*)

### **LBR 2016-2 Hearings on Compensation of Professionals in Non-Chapter 11 Cases**

All applications for compensation of professional persons in non-chapter 11 cases shall be noticed for a contingent hearing. The court may grant such applications without a hearing, provided that the following conditions are met:

- (a) No objections have been filed.
- (b) The application meets all of the requirements of the Bankruptcy Code and Rules and complies with all provisions of the *LBRs*.

*Cross-References:*

[LBR 7102](#) (*Motion Content*)

[LBF 2016-2](#) (*Notice of Contingent Hearing on Application(s) for Compensation*)

### **LBR 2016-3 Hearings on Compensation of Professionals in Chapter 11 Cases**

(a) *Contingent Hearings.* Applications for compensation of professional persons in chapter 11 cases requesting a fee on a flat, fixed percentage, or contingent basis shall be noticed for a contingent hearing. The court may grant such applications without a hearing, provided that the following conditions are met:

- (1) No objections have been filed.
- (2) The application meets all of the requirements of the Bankruptcy Code and Rules and complies with all provisions of the *LBRs*.

(b) *Non-Contingent Hearings.* Applications for compensation of professional persons that do not meet the criteria set forth in (b) above must be noticed for a hearing following the procedure described in

*LBR 7101(b).*

*Cross-References:*

[LBR 7102](#) (*Motion Content*)

[LBF 2016-2](#) (*Notice of Contingent Hearing on Application(s) for Compensation*)

#### **LBR 2016-4 Compensation of Petition Preparers**

- (a) *Required Documents.* Any petition preparer who receives compensation from a debtor for preparing a bankruptcy petition or other document must complete and file Official Bankruptcy Form B119 and Director's Form B2800.
- (b) *Hearing Required.* Should a bankruptcy petition preparer in any individual case seek a determination that the value of services rendered exceeds \$150, the bankruptcy petition preparer shall file a motion with the court requesting a hearing. The motion shall be filed within fourteen (14) days after the date of the filing of a petition. See *In re Moran*, 256 B.R. 842 (Bankr. D.N.H. 2000).

#### **LBR 2070-1 Estate Administration**

Without application or notice to the court, a chapter 7 trustee is authorized to pay routine expenses, other than the fees of professionals employed under § 327 of the Bankruptcy Code, arising out of administration of a chapter 7 estate that do not exceed in the aggregate the sum of \$1,000.00. All disbursements made in payment of such routine administrative expenses shall be subject to review by the court at the conclusion of the case and shall be itemized and described in the final report and accounting filed by the trustee.

#### **LBR 2083-2 Chapter 13 — Proof of Value of Real Estate; Proof of Insurance**

Whenever improved real estate is scheduled in a chapter 13 case, the debtor shall provide, at least seven (7) days prior to the § 341 meeting, proof of value, proof of insurance and such other insurance information as the chapter 13 trustee may require. Whenever a debtor in a chapter 13 case operates a business, the debtor shall provide, at least seven (7) days prior to the § 341 meeting, proof of appropriate business insurance.

#### **LBR 2083-3 Chapter 13 — Requirements for Business Debtor**

If a chapter 13 debtor is a debtor engaged in business, the debtor shall provide to the chapter 13 trustee a monthly operating report substantially in the form of *LBF 2083-3*. The debtor shall provide such report on a monthly basis until the time the trustee files a motion for authorization to pay claims. A copy of the monthly operating report shall be provided upon request to any party in interest by the chapter 13 trustee. If the chapter 13 trustee would like monthly reporting to continue after he commences paying claims, the trustee shall make such a request in writing. Such request may be contained in the motion for authorization to pay claims.

*Cross-Reference:*

[LBF 2083-3](#) (*Monthly Operating Report*)

## **LBR 2090-1 Attorneys — Admission to Practice**

- (a) *Admission of Member of the Bar of the District Court.* Any attorney admitted to the bar of the United States District Court for the District of New Hampshire is admitted to practice before the United States Bankruptcy Court for the District of New Hampshire. The provisions of LR 83.2(a) shall govern the admittance of an attorney appearing for the United States, for an agency of the United States or for an officer of the United States in an official capacity.
- (b) *Admission Pro Hac Vice.* Any attorney not admitted to the bar of the United States District Court for the District of New Hampshire may appear and practice before the United States Bankruptcy Court in a particular action at the court's discretion and on motion by a member of the bar of the United States District Court for the District of New Hampshire who is actively associated with him or her in a particular action. All such motions shall have attached a supporting affidavit meeting the requirements of LR 83.2(b)(1) and containing a statement that:
- (1) The attorney is familiar with the requirements of *LBR 2090-2* regarding disciplinary jurisdiction and rules.
  - (2) The attorney is familiar with or is associated with local counsel who is familiar with the substantive and the procedural requirements of the *LBRs* and *AOs* of the bankruptcy court.
  - (3) The attorney is familiar with the requirements of *LBR 5005-4* and *AO 5005-4* regarding electronic filing and that the attorney has been issued a log-in and password by the court or will secure a log-in and password from the court no later than fourteen (14) days after admission *pro hac vice*.

However, in accordance with § 304(g) of the Bankruptcy Reform Act of 1994, child support creditors or their representatives shall be permitted to appear and intervene without meeting the requirements of this rule if said creditors or representatives file a form with the court that contains information detailing the child support debt, its status and other characteristics.

### *Cross-References:*

[LR 83.2](#) (*Practice by Persons Not Members of the Bar of this Court*)

[LBR 2090-2](#) (*Attorneys — Discipline and Disbarment*)

[LBR 5005-4](#) (*Electronic Filing*)

[LBR 9010-1](#) (*Attorneys — Notice of Appearance*)

[AO 5005-4](#) (*Electronic Filing*)

## **LBR 2090-2 Attorneys — Discipline and Disbarment**

The following disciplinary rules and procedures shall apply in all matters before this court.

- (a) *Conferred Disciplinary Jurisdiction.* Any attorney admitted or permitted to practice before this court shall be deemed to have conferred disciplinary jurisdiction upon this court for any alleged attorney misconduct arising during the course of a case pending before this court in which that attorney has participated in any way.
- (b) *Promulgation of Disciplinary Rules.* The court, in furtherance of its inherent authority and



responsibility to supervise the conduct of attorneys who are admitted or permitted to practice before it, and the authority granted by the United States District Court for the District of New Hampshire under LR 77.4(b), adopts LR 83.5, as amended from time to time.

#### **LBR 2091-1 Attorneys — Withdrawals**

- (a) *Generally.* An attorney may withdraw from a case by serving notice of withdrawal on the client and on all other parties and by filing the notice with the clerk provided that: (1) there are no motions affecting the attorney's client pending before the court, (2) a pretrial scheduling order has not been entered in an adversary proceeding involving the client, and (3) no trial date on any such adversary proceeding has been set. If these conditions are not met, an attorney may only withdraw from a case by leave of the court after the filing of a motion. When an attorney withdraws from a case and no other appearance is entered, the clerk shall notify the party by mail of such withdrawal and, unless the party appears *pro se* or through counsel within the time specified in the clerk's notice, the court may terminate the case by dismissal or default judgment. As a condition of withdrawal, the debtor's attorney shall notify the clerk, in writing, of the client's last known address.
- (b) *Appointed Professionals.* Notwithstanding paragraph (a) of this rule, professionals appointed by court order under § 327 of the Bankruptcy Code may withdraw from representation of an entity as counsel of record only upon order of the court.

*Cross-Reference:*

[LBR 2014-2](#) (Chapter 13 — Representation by Attorneys)

### **PART III CLAIMS AND DISTRIBUTION TO CREDITORS AND EQUITY INTEREST HOLDERS; PLANS**

#### **LBR 3001-1 Claims and Equity Security Interests — General; Electronic Filing of Claims**

- (a) *Standard Bar Date.* Upon the filing of a chapter 11 reorganization petition, the court will routinely enter an order establishing a claims bar deadline date for the case 120 days after the filing. The deadline date will be included in the notice of the meeting of creditors issued by the clerk unless debtor's attorney, at the time of the filing of the chapter 11 petition, indicates a desire for a claims deadline date earlier or later than the 120-day date.
- (b) *Non-Standard Bar Date.* In those instances in which a 120-day claims deadline date is not appropriate, debtor's attorney should submit a motion and proposed order providing for a different date at the time that the chapter 11 petition is filed. The motion should include a brief statement of the reason for the date suggested and should request *ex parte* consideration.
- (c) *Claims Agent.* All proofs of claim or interest shall be filed with the clerk; however, the debtor may, at the time of filing the petition or as soon as practicable thereafter, file an application to employ a claims agent who will assist the clerk with this function. If said application is approved by the court, then all claims in that case will be filed with the claims agent. The court may, at any time, order the debtor to

employ a claims agent.

### **LBR 3001-2 Requests for Allowance of Administrative Expense Claims**

An entity filing a request for the allowance of an administrative expense pursuant to 11 U.S.C. § 503(b) shall make such request by motion following the procedures established in Part VII-B of these *LBRs*. Failure to follow these procedures may result in the disallowance of the requested administrative expense.

*Cross References:*

[LBR 7101](#) (*Motion Procedure*)

[LBR 7103](#) (*Certificate of Service — Motions*)

[LBR 7104](#) (*Notice of Hearing*)

### **LBR 3007-1 Claims — Objections**

All objections to claims shall be noticed for a contingent hearing using *LBF 3007-1*. The court may sustain such objections without a hearing, provided the following conditions are met:

- (a) No responses have been filed.
- (b) The objection meets all of the requirements of the Bankruptcy Code and Rules and complies with all provisions of the *LBRs*.

*Cross-Reference:*

[LBF 3007-1](#) (*Notice of Contingent Hearing on Objection to Claim*)

### **LBR 3012-1 Valuation of Collateral — Motions to Determine Secured Status and Void Wholly Unsecured Liens**

- (a) *Motions.* All pleadings requesting that the court determine the secured status of a claim under 11 U.S.C. § 506(a) and modify the rights of a holder of a residential real property lien by voiding the lien as wholly unsecured under 11 U.S.C. § 1322(b)(2) or 11 U.S.C. § 1123(b)(5) shall be filed as a motion, and not as an objection to claim, and shall be titled “Motion to Determine Secured Status and Void Wholly Unsecured Lien.” Motions to determine secured status and void wholly unsecured liens shall contain a specific allegation stating the basis for the value of the residential real property asserted in the motion and shall have attached to it a copy of any document that supports that value. Before filing the motion, the movant shall ensure that the lien being avoided is listed on Schedule D as filed with the petition or as subsequently amended.
- (b) *Service.* The movant shall ensure that the motion is served in accordance with Bankruptcy Rule 7004, made applicable by Bankruptcy Rule 9014(b), particularly Bankruptcy Rule 7004(h), which requires service on an insured depository institution be made by certified mail addressed to an officer of the institution.
- (c) *Filing Motion in CM/ECF.* Such motions shall be filed in CM/ECF under the motion to avoid lien event and shall follow the prompts related to motions filed under 11 U.S.C. §§ 506(a) and 1322(b)(2) or

1123(b)(5) and not those for motions filed under 11 U.S.C. § 522(f).

- (d) *Contingent Hearings.* Such motions shall be scheduled for hearing by contacting the courtroom deputy of the judge assigned to the case in chief pursuant to the requirements of *LBR 7101(b)* and not by using the hearing date for a motion to avoid lien under 11 U.S.C. § 522(f) posted on the court’s web site. Hearings on motions to determine secured status and void wholly unsecured liens shall be noticed as contingent hearings using *LBF 3012-1B*, and the court may enter an order granting such motions without a hearing if:
- (1) a motion to determine secured status and void wholly unsecured lien is filed that meets all of the requirements of the Bankruptcy Code and complies with all provisions of the *LBRs*, and
  - (2) no objection to the motion to determine secured status and void wholly unsecured lien has been filed.
- (e) *Proposed Orders.* Such motions shall be accompanied by a proposed order in the form of *LBF 3012-1A* that makes clear that the residential real property lien is voided only upon completion of the debtor’s plan of reorganization and the court’s issuance of a discharge under 11 U.S.C. § 1328(a) or 11 U.S.C. § 1141(d)(5).

*Cross-References:*

- [\*AO 3012-1\*](#) (*Valuation of Personal Property and Non-Residential Real Property -Motions to Determine Secured Status and Limit Secured Claims*)
- [\*LBF 3012-1A\*](#) (*Order Granting Motion to Determine Secured Status and Void Wholly Unsecured Lien*)
- [\*LBF 3012-1B\*](#) (*Notice of Contingent Hearing on Motion to Determine Secured Status and Void Wholly Unsecured Lien*)
- [\*LBF 3012-1C\*](#) (*Order Granting Motion to Determine Secured Status and Limit Secured Claim*)

## **LBR 3015-1 Chapter 13 — Plan**

- (a) *Form of Plan.* A chapter 13 plan shall be in the form specified in *LBF 3015-1A*. Failure to use the required form may result in denial of confirmation of that plan without prejudice to the debtor refile it in the proper form.
- (b) *Service of Plan and Notice of Hearing.* Upon scheduling of a confirmation hearing or the filing of an amended plan, the debtor shall serve a copy of the plan along with the notice of confirmation hearing in the form of *LBF 3015-1B* upon the chapter 13 trustee, all creditors and other parties in interest who do not receive copies by electronic filing. The debtor shall file with the plan or amended plan a certificate of service certifying that a copy of the plan and the notice of confirmation hearing have been served upon the trustee, all creditors and parties in interest, in accordance with Bankruptcy Rule 2002(b).
- (c) *Plan Payments.* All arrearage payments on priority and secured claims shall be payable through the plan.
- (d) *Caption.* Each plan and any amended plan shall include the date of the plan or the date of the amendment in its caption, e.g., “Amended Plan Dated \_\_\_\_\_.”

*Cross-References:*

- [\*LBF 3015-1A\*](#) (*Chapter 13 Plan*)

[LBF 3015-1B](#) (*Notice of Contingent Hearing on Confirmation*)

### **LBR 3015-3 Chapter 13 — Confirmation**

- (a) *Objection Deadline.* Any objection to confirmation of a chapter 13 plan shall be filed no later than fourteen (14) days before the date set for the confirmation hearing. The objection shall be heard at the confirmation hearing.
- (b) *Service of Objection.* The objecting party shall file the objection to confirmation with the court and serve copies on the United States Trustee, the chapter 13 trustee, the debtor, the debtor’s attorney and any other party who has requested notice. The objection shall be accompanied by a certificate of service evidencing compliance with this requirement.
- (c) *Contingent Hearings.* Hearings on confirmation shall be contingent. The movant shall provide notice of the contingent hearing in the form of *LBF 3015-1B*. The court may enter an order confirming the debtor’s plan without a hearing if:
- (1) the debtor proposes and serves a plan in the form of *LBF 3015-1A* that meets all of the requirements of chapter 13 and complies with all provisions of the *LBRs*;
  - (2) no objections to confirmation have been filed or, if any objections to confirmation have been filed, such objections have been withdrawn or resolved; and
  - (3) the chapter 13 trustee files a written recommendation that the plan should be confirmed.

*Cross-References:*

[LBR 3015-1](#) (*Chapter 13 — Plan*)

[LBF 3015-1A](#) (*Chapter 13 Plan*)

[LBF 3015-1B](#) (*Notice of Contingent Hearing on Confirmation*)

### **LBR 3015-5 Chapter 13 — Modification of Plan After Confirmation**

- (a) *Post-Confirmation Modification.* A party who seeks to modify a chapter 13 plan after confirmation shall do so by filing a motion to modify with a copy of the proposed modified plan, in the form of *LBF 3015-1A*, attached. Failure to use the required form may result in denial of the motion to modify without prejudice to the movant refiling it in the proper form. The motion shall include a statement of the reason for the modification. In conjunction with a motion to modify filed by the debtor, the debtor shall file amended schedules of income and expenses, if applicable.
- (b) *Service.* The motion, modified plan and a notice of hearing shall be served on the debtor, the chapter 13 trustee and on all creditors and parties who have requested notice. Each modified plan shall be titled “Modified Plan Dated \_\_\_\_\_.”
- (c) *Prohibition.* No modifications to a plan may be made by interlineation, supplements or deletions.
- (d) *Contingent Hearings.* Hearings on motions to modify plans after confirmation are contingent. They shall be scheduled by the movant with the courtroom deputy of the judge assigned to the case and

noticed consistently with *LBF 3015-1C* as a contingent hearing. The court may enter an order granting the motion to modify the confirmed plan without a hearing if:

- (1) the movant proposes and serves a modified plan in the form of *LBF 3015-1A* that meets all of the requirements of chapter 13 and complies with all provisions of the *LBRs*;
- (2) no objections to the motion to modify have been filed or, if any objections to the motion to modify have been filed, such objections have been withdrawn or resolved; and
- (3) the chapter 13 trustee files a written recommendation that the plan should be modified.

*Cross-References:*

[\*LBR 3015-1\*](#) (*Chapter 13 — Plan*)

[\*LBF 3015-1A\*](#) (*Chapter 13 Plan*)

[\*LBF 3015-1C\*](#) (*Notice of Contingent Hearing on Modification of Confirmed Plan*)

### **LBR 3016-1 Chapter 11 — Plan**

(a) *Caption of Plans and Disclosure Statements.* Every plan of reorganization and disclosure statement filed in a chapter 11 case and any amended plan and amended disclosure statement shall include the date of the document and the identity of the plan proponent in the caption. The only change to the caption of an amended plan or an amended disclosure statement shall be the date of such amendment.

- (1) Example of original captions: “Debtor’s Plan Dated \_\_\_\_\_” or “Debtor’s Disclosure Statement Dated \_\_\_\_\_”
- (2) Example of amended captions: “Debtor’s Amended Plan Dated \_\_\_\_\_” or “Debtor’s Amended Disclosure Statement Dated \_\_\_\_\_”

(b) *Red-Lined Copies.* The plan proponent shall submit to the courtroom deputy, via email or paper copy—for the personal use of the judge—a separate red-lined copy of any amended plan or amended disclosure statement that underlines all changes to such document.

(c) *Non-Attachment.* The plan shall not be attached as an exhibit to the disclosure statement but shall be filed as a separate document.

### **LBR 3017-1 Disclosure Statement — Approval**

(a) *Filing.* When a disclosure statement is filed with the court, such disclosure statement must be accompanied by: (1) a separate copy of the plan of reorganization, and (2) a notice setting the hearing date and the deadline for objections to the disclosure statement. Said notice shall be in the form of *LBF 3017-1A*. The objection date shall be seven (7) days prior to the hearing scheduled on the disclosure statement unless otherwise ordered by the court.

(b) *Proposed Order.* Unless otherwise ordered by the court, within seven (7) days after a hearing approving the disclosure statement, counsel for the plan proponent shall submit a proposed order in the form of *LBF 3017-1B*, which sets forth the following:

- (1) The last day for filing ballots.
- (2) The last day for filing objections to the plan.
- (3) The date scheduled for the confirmation hearing, to be obtained from the courtroom deputy prior to submitting the order.
- (4) A paragraph stating the following: “The debtor shall, within seven (7) days after serving the plan and disclosure statement as required by this order, file a certificate of such service with this court accompanied by an attached copy of the order approving the disclosure statement, plan, disclosure statement and ballot as served.”
- (5) In the case of an individual debtor, a stock paragraph stating the following: “Complaints objecting to the debtor’s discharge under § 727(a) of the Bankruptcy Code shall be filed not later than \_\_\_\_\_ [the date set for the confirmation hearing].”

*Cross-References:*

[LBR 3016-1](#) (Chapter 11 — Plan)

[LBR 7101](#) (Motion Procedure)

[LBR 9073-1](#) (Hearings)

[LBF 3017-1A](#) (Notice of Hearing on Adequacy of Amended Disclosure Statement)

[LBF 3017-1B](#) (Order Approving Disclosure Statement and Fixing the Time for Voting on the Plan and for Filing Objections to Confirmation of the Plan)

## **LBR 3018-2 Acceptance/Rejection of Plans**

When a chapter 11 plan of reorganization is scheduled for a hearing upon confirmation, the plan proponent, by its attorney of record, shall prepare and present to the court, at least two (2) business days prior to the hearing, a “Certificate of Vote” in the form of *LBF 3018-2*, appropriately modified as required by circumstances. Unless otherwise ordered by the court, original voting ballots must be available for inspection by any interested party at the confirmation hearing.

*Cross-Reference:*

[LBF 3018-2](#) (Certificate of Vote)

## **LBR 3020-1 Chapter 11 — Confirmation**

- (a) *Retention of Jurisdiction.* Unless specific grounds for additional retained jurisdiction are shown by the plan proponent at the confirmation hearing, the court will retain jurisdiction following the confirmation of a plan of reorganization only on the following limited basis:
- (1) To hear and determine objections to claims.
  - (2) To hear and determine any dispute arising under the plan, its implementation and execution of any necessary documents thereunder and any requests to amend, modify or correct the plan, provided such matters are brought before the court prior to the point of substantial consummation.

- (3) To grant extensions of any deadlines set forth in the confirming order as may be appropriate.
- (4) To enforce all discharge provisions under the plan.
- (5) To consider and rule upon requests for final compensation.

(b) *Additional Retained Jurisdiction.* If, at the confirmation hearing, the plan proponent is not in a position to request specific retention of additional jurisdiction, then the court may conditionally reserve in the confirming order the question of additional retained jurisdiction under a procedure by which the plan proponent at a fixed date following entry of the confirmation order (usually sixty (60) days) will file a motion on notice requesting additional retention of jurisdiction for specific matters which will be embodied in a supplementary order to be entered by the court.

(c) *Proposed Confirmation Order.* Unless otherwise ordered by the court, within seven (7) days after the hearing approving a plan of reorganization, counsel for the plan proponent shall submit a proposed confirmation order which includes the following provisions and is substantially in the form of *LBF 3020-1*:

- (1) A paragraph that states that all fees due and all quarterly fees payable to the United States Trustee have been paid as of the confirmation date.
- (2) The last day for filing objections to claims.
- (3) The last day for filing applications for attorneys' fees or other professional fees and expenses.
- (4) The deadline for filing the application for final decree.

(d) *Deadline for Filing Application for Final Decree.* When proposing the deadline for filing the application for final decree, consideration must be given to any matters that need to be resolved by the court (e.g., fee hearings or objections to claims) and the amount of time needed to hear these matters.

*Cross-References:*

[11 U.S.C. § 1101\(2\)](#) (*Definition of Substantial Consummation*)

[11 U.S.C. § 1127](#) (*Modification of Plan*)

[28 U.S.C. § 1930](#) (*Bankruptcy Fees*)

[LBF 3020-1](#) (*Order Confirming Plan of Reorganization*)

## **LBR 3022-1 Final Report/Decree (Chapter 11)**

(a) *Filing of Application for Final Decree.* Preparation and prosecution of the application for a final decree closing a chapter 11 case shall be a continuing post-confirmation duty of the attorney for the plan proponent and said application shall be prepared and filed not later than 120 days following the date of confirmation of the plan of reorganization, unless specifically stated otherwise in the confirmation order. The case shall be deemed fully administered at the point of substantial consummation of the plan. Compensation allowed such attorney at the time of confirmation includes compensation for time estimated to be required for performance of those duties. Failure to perform said duties in a timely manner may accordingly result in the entry of an order to refund a portion of the fees so allowed.

(b) *Form of Application for Final Decree.* The application for a final decree closing a chapter 11 case shall contain, at a minimum, the following representations:

- (1) A statement that the plan of reorganization or liquidation confirmed by the court has been substantially consummated in accordance with the provisions of the plan, the confirming order and any orders of the court subsequent to confirmation.
- (2) A statement that the debtor, trustee or plan proponent has disbursed to all persons so entitled, all sums allowed by the court as compensation for services rendered and reimbursement of costs incurred and, in support of said statement, an attached exhibit, designated "Exhibit A," containing the names, addresses and amounts paid to persons to whom allowances were made.
- (3) A statement that the debtor, trustee or plan proponent has commenced the distribution to creditors of the sums due them under the plan and, in support of said statement, an attached exhibit, designated "Exhibit B," containing the names, addresses and amounts paid to each such creditor.
- (4) A statement of all remaining distributions to be made to creditors following entry of the final decree, the date or dates involved and, in support of said statement, an attached exhibit, designated "Exhibit C," containing the names, addresses and amounts to be paid to each such creditor.
- (5) If applicable, a statement that the debtor, trustee or plan proponent has not been able to make distribution to creditors, together with a list of such creditors setting forth their names, addresses and the amounts of any dividends owing. Representation must be made that checks were mailed to said creditors but were returned and that the debtor, trustee or plan proponent has been unable to determine an adequate address despite reasonable attempts to do so.
- (6) A statement of requested additional provisions by way of injunction or otherwise as may be equitable.
- (7) A statement that all fees due to the court and all quarterly fees due to the United States Trustee have been paid in full.
- (8) A statement of the percentage dividend to be paid to the general class of unsecured creditors under the confirmed plan. If the plan contemplates no payment to unsecured creditors, the statement shall indicate "\$0" to be paid.

(c) *Proposed Order.* The application for a final decree shall be filed with a proposed form of final decree for the court's use, which proposed order shall incorporate by reference the representations set forth in the application, to support a determination that the estate has been fully administered and that the case may be closed.

*Cross-Reference:*

[Bankruptcy Rule 3022](#) (*Final Decree in Chapter 11 Reorganization Case*)



## PART IV THE DEBTOR: DUTIES AND BENEFITS

### LBR 4001-1 Automatic Stay — Relief From

- (a) *Content Required.* Any motion seeking relief from the automatic stay pursuant to § 362(d) of the Bankruptcy Code involving encumbered real or personal property shall include: (1) the claimed value of the property with respect to which relief is requested, (2) the amount of movant's debt alleged to be secured by such property, (3) evidence of movant's security interest in such property, and (4) the total of all lien claims attaching to such property.
- (b) *Relief Limited.* A motion for relief from stay or co-debtor stay shall include no other requested relief, except that the movant may request adequate protection as alternative relief.
- (c) *Denial if Insufficient Data.* Any motion for relief from stay involving encumbered real or personal property that fails to include the items recited in paragraph (a) of this rule may be denied without prejudice by the court without further consideration.
- (d) *Hearing Scheduled.* Movant shall obtain a hearing date prior to filing a motion for relief from stay from the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov)
- (e) *Uncontested Motions.* In the absence of a timely response, the motion shall be treated as uncontested, the scheduled hearing shall be canceled without further notice, and the motion shall be granted. Notwithstanding the above, the motion shall be heard as scheduled if (1) the debtor is *pro se*, (2) the first scheduled date for the § 341 meeting has not passed, or (3) the case is a chapter 11 case.
- (f) *Contested Motions.* Any response filed in opposition to a motion for relief from stay involving encumbered real or personal property shall: (1) identify the interest of the opposing party in the property, (2) state with particularity the grounds for the opposition, and (3) state the claimed value of the property specified in the motion and the amount of equity which exists in the property after deduction of all encumbrances.
- (g) *Settlement Agreements.* Any settlement agreement regarding a motion for relief from stay shall comply with LBR 9071-1 and the mandatory notice and service requirements of Bankruptcy Rule 4001(d).
- (h) *Worksheets.* Any motion seeking relief from the automatic stay pursuant to 11 U.S.C. § 362(d) to permit a foreclosure of encumbered residential real property, consisting of one to four living units, owned by an individual debtor shall be accompanied by LBF 4001-1A, Worksheet Completed by the Mortgagee/Servicer in Support of Motion for Relief from Stay Involving Residential Real Property, unless:
- (1) the movant has obtained the debtor's assent to the motion prior to the motion being filed with the court, and the motion so indicates; or
  - (2) the debtor has indicated an intent to surrender the real property that is the subject of the motion in either (A) the debtor's statement of intent filed with the court pursuant to 11 U.S.C. § 521(a)(2), or (B) the debtor's plan of reorganization, and the motion so indicates.

Notwithstanding subsections (h)(1) and (h)(2) above, if *LBF 4001-1A* is not required to be filed, the movant instead shall attach to the motion *LBF 4001-1B*, Statement — Motion for Relief Worksheet Not Required. Failure to attach *LBF 4001-1A* or *LBF 4001-1B* to the motion may result in the motion being denied without prejudice by the court without further consideration.

*Cross-References:*

[\*LBR 5075-1\*](#) (*Clerk — Delegated Functions; Designation of Parties to Receive Notice*)

[\*LBR 9071-1\*](#) (*Stipulations; Affidavits of Noncompliance*)

[\*AO 9012-1\*](#) (*Compliance with the Servicemembers Civil Relief Act*)

[\*LBF 4001-1A\*](#) (*Worksheet Completed by the Mortgagee/Servicer in Support of Motion for Relief from Stay Involving Residential Real Property*)

[\*LBF 4001-1B\*](#) (*Statement — Motion for Relief Worksheet is Not Required*)

## **LBR 4001-2 Cash Collateral**

- (a) *Motions.* All motions for use of cash collateral and any stipulations pertaining to the same, shall be served by the debtor upon all parties claiming an interest in such cash collateral as the debtor proposes to use, the creditors' committee, or if a committee has not been appointed by the time the debtor files and serves such application, then on the twenty (20) largest unsecured creditors and the United States Trustee in accordance with the notice provisions of Bankruptcy Rule 4001(b) and *LBRs 2002-1* and *2002-2*. A hearing on a motion for use of cash collateral will be held only after compliance with the mandatory notice and service requirements of Bankruptcy Rule 4001(b) and *LBRs 2002-1* and *2002-2*.
- (b) *Interim Use.* If a motion for use of cash collateral is filed with the court on or shortly after entry of the order for relief, the court may grant interim use of cash collateral pending review of the terms of such use by the interested parties. Such interim relief should be granted only to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the court shall not approve interim cash collateral orders that include any of the provisions identified below in subparagraphs (c)(1) through (c)(9) of this rule. A debtor that seeks an order approving interim use of cash collateral pending a final hearing shall present the following information by affidavit: (1) the names and addresses of all creditors holding a secured interest in the cash collateral and their attorneys, if known; (2) the efforts made to contact such secured creditors or their attorneys and any appointed committee or, if no committee has been appointed, the twenty (20) largest unsecured creditors; and (3) the nature of the emergency requiring an order approving interim use of cash collateral.
- (c) *Provisions to be Highlighted and Justified.* All cash collateral motions must: (1) recite whether the proposed form of order or underlying cash collateral stipulation contains any provision of the type indicated below, (2) identify the location of any such provision in the proposed order or cash collateral stipulation, and (3) state the justification for the inclusion of such provision. The provisions to be highlighted and justified are:
- (1) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (e.g., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law).
  - (2) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of the secured creditor's prepetition lien or debt or the waiver of

claims against the secured creditor without first giving parties in interest at least seventy-five (75) days from the entry of the order and the creditors' committee, if formed, at least sixty (60) days from the date of its formation to investigate such matters.

- (3) Provisions that seek to waive any rights that the estate may have under § 506(c) of the Bankruptcy Code.
- (4) Provisions that immediately grant to the prepetition secured creditor liens on the debtor's claims and causes of action arising under §§ 544, 545, 547, 548 and 549 of the Bankruptcy Code.
- (5) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided in § 552(b) of the Bankruptcy Code.
- (6) Provisions that provide treatment for the professionals retained by a committee appointed by the United States Trustee different from that provided for the professionals retained by the debtor with respect to a professional fee carve-out, and provisions that limit the committee counsel's use of the carve-out.
- (7) Provisions that prime any secured lien, without the consent of that lienor.
- (8) A declaration that the order does not impose lender liability on any secured creditor.
- (9) Provisions that grant the lender expedited relief from the automatic stay in § 362 of the Bankruptcy Code or relief from the automatic stay without further order of the court.

The court may deem unenforceable any provision not highlighted as required.

- (d) *Other Requirements.* All motions for use of cash collateral shall also provide a summary of the essential terms of the proposed use of cash collateral, including the maximum amount available on a final basis, the amount available on an interim basis, any conditions on use, any events of default, use of funds limitations and a description of the adequate protection to be provided to the secured creditors. The cash collateral motion shall also have attached to it a budget covering the time period in which the cash collateral order shall remain in effect. The budget shall state, in as much detail as is reasonably practical, the amount of projected receipts and disbursements during the period covered by the budget.
- (e) *Proposed Orders.* Proposed orders granting the use of cash collateral on either an interim or a continuing basis shall contain a limit in amount and shall state a date of termination. If necessary, proposed orders shall also provide space for the court to fill in a deadline within which a further application for continued use of cash collateral shall be filed and a space for a hearing date on the application for continued use. In no event will an interim order granting use of cash collateral be entered covering a period in excess of thirty (30) days from the commencement of the case. Proposed orders shall also include a paragraph which states that the provisions of the order are subject to a "winding down" proviso under which the court reserves the right to enter such further orders as may be necessary regarding the use of cash collateral to provide for payment of any administrative claims for wage and trade creditors who have supplied goods or services to the debtor during the period of operation under this order (and any stipulation) which remain unpaid at the time of termination of authorized cash collateral usage, and which goods or services have created additional collateral for the secured claimant.

(f) *Hearings*. The court shall hold a hearing on the debtor's first request for use of cash collateral even if interim use has initially been granted on an *ex parte* basis. All subsequent hearings on motions seeking continued use of cash collateral shall be noticed as contingent hearings using *LBF 4001-2*, and the court may enter an order granting such motions without a hearing if:

- (1) a motion for continued use of cash collateral is filed that meets all of the requirements of the Bankruptcy Code and Rules and complies with all provisions of the *LBRs*, and
- (2) no objection to the motion for continued use of cash collateral has been filed.

*Cross-Reference:*

[LBF 4001-2](#) (*Notice of Contingent Hearing on Motion for Continued Use of Cash Collateral*)

### **LBR 4001-4 Motion to Incur Additional Debt to Acquire Motor Vehicle in Chapter 13**

If, while a debtor is in chapter 13, the debtor seeks to incur additional debt to acquire a vehicle, the debtor shall file with the court an *ex parte* motion and proposed order substantially in the forms of *LBF 4001-4A* and *LBF 4001-4B*, respectively.

*Cross-References:*

[LBF 4001-4A](#) (*Ex Parte Motion to Incur Additional Debt*)

[LBF 4001-4B](#) (*Order Granting Ex Parte Motion to Incur Additional Debt*)

### **LBR 4001-5 Motions to Extend the Stay**

The deadline to file and serve a motion to extend the stay under 11 U.S.C. § 362(c)(3)(B) is seven (7) days after the petition is filed. Prior to filing and serving such motion to extend the stay, the debtor shall contact the courtroom deputy of the judge assigned to the case in accordance with *LBR 7101(b)* to obtain a hearing date for the motion.

### **LBR 4002-1 Debtor — Duties**

- (a) *Safekeeping of Books and Records*. Unless a trustee appointed by the United States Trustee takes possession of books and records of a bankruptcy estate, it shall be the duty of the debtor to maintain, preserve and keep in safe storage all of the debtor's books and records during the time the case is pending.
- (b) *Turnover of Books and Records*. Upon request, the debtor shall make the debtor's books and records immediately available to the trustee or the trustee's designated agent.
- (c) *Copies*. The debtor must bring a paper copy of the signed petition, schedules, statements and lists to the meeting of creditors so that the trustee may use the paper copy to examine the debtor.
- (d) *List of Inventory or Equipment*. When inventory or business equipment is scheduled in a chapter 7 case, the debtor shall, immediately after the general description thereof or in an annexed document, furnish a detailed list of the inventory and business equipment with a brief explanation of its exact location, the

name and address of the custodian thereof, the protection being given such property and the amount of fire and theft insurance, if any. If the list of inventory and business equipment required by this rule cannot feasibly be included with the original schedules, it shall be filed not later than fourteen (14) days after the filing of the bankruptcy petition.

- (e) *Preservation of Property.* If a debtor's inventory includes perishables or if property or the business premises otherwise needs immediate attention or protection, the debtor, the debtor's attorney or the trustee shall notify the clerk, the United States Trustee and the trustee of the need for immediate action. Notification shall be by personal communication or by telephone.

*Cross-References:*

[LBR 1007-1](#) (*Lists, Schedules and Statements*)

[LBR 4002-2](#) (*Address of Debtor*)

### **LBR 4002-2 Address of Debtor**

The debtor shall notice the court, any trustee appointed in the case and the debtor's attorney of record, in writing, whenever the debtor's mailing address changes while the case is pending. Failure to comply with this rule may result in dismissal of the case, granting of relief against the debtor based upon notice to the last address of record in the case or such other sanctions as the court may deem appropriate.

### **LBR 4003-2 Lien Avoidance**

- (a) *Motion.* Any motion seeking to avoid a lien pursuant to § 522(f) of the Bankruptcy Code shall be substantially in the form of *LBF 4003-2A* and shall include: (1) the claimed value of the property with respect to which relief is requested; (2) the name of all lienholders (and, if known, each lienholder's counsel) listed in their order of priority; and (3) the amount of each lienholder's lien. Before filing the motion, the movant shall ensure that the lien being avoided is listed on Schedule D as filed with the petition or as subsequently amended.
- (b) *Notice.* Prior to filing a motion to avoid lien under § 522(f), the movant shall obtain a hearing date from the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov). Service must be made by mail or by electronic means, as permitted by *LBR 5005-4*, upon the parties against whom relief is requested and their attorneys, if known, along with a copy of said motion.
- (c) *Service.* The movant shall ensure that the motion is served in accordance with Bankruptcy Rule 7004, made applicable by Bankruptcy Rule 9014(b). In order to be valid, service must be made at least twenty-one (21) days prior to the hearing.
- (d) *Hearings Contingent.* Hearings on motions to avoid lien shall be noticed as contingent hearings using *LBF 4003-2B*, and the court may enter an order granting the motion to avoid lien without a hearing if:
- (1) a motion to avoid lien in the form of *LBF 4003-2A* is filed that meets all of the requirements of the Bankruptcy Code and complies with all provisions of the *LBRs*, and
  - (2) no objection to the motion to avoid lien has been filed.

*Cross-References:*

[LBF 4003-2A](#) (*Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)(2)*)

[LBF 4003-2B](#) (*Notice of Contingent Hearing on Motion to Avoid Lien Pursuant to 11 U.S.C. §522(f)(2)*)

[LBF 4003-2C](#) (*Order Granting Motion to Avoid Lien Pursuant to 11 U.S.C. § 522(f)(2)*)

## **PART V COURT AND CLERK**

### **LBR 5001-2 Clerk — Office Location/Hours**

(a) *Office Hours.* The business hours of the office of the clerk are from 8:30 a.m. to 4:30 p.m. daily except Saturday, Sunday and legal holidays, or as otherwise notified. If exigent circumstances require the filing of documents outside these business hours, arrangements for such filing may be made with the clerk in advance.

(b) *Access to Electronic Filing System.* Except during specified system maintenance periods, filing users may file documents at any time through the court's CM/ECF filing system.

*Cross-References:*

[LBR 5005-4](#) (*Electronic Filing*)

[AO 5001-2](#) (*Location and Mailing Address of Clerk's Office*)

[AO 5005-4](#) (*Electronic Filing*)

### **LBR 5002-1 Register of Mailing Addresses**

The clerk shall maintain a register of mailing addresses of federal and state governmental units and certain other taxing authorities, as required by Bankruptcy Rule 5003(e), on the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov).

### **LBR 5003-4 Court Documents**

(a) *Review of Court Records.* All records filed with the court, not under seal, are subject to examination by the public without charge at the clerk's office. All records submitted to (not filed with) the court may be reviewed only after issuance of a court order, and no such order shall issue except for good cause.

(b) *Access to Electronic Filing System.* Any user with a log-in and password to the United States Courts PACER system may view documents at any time and will be charged the appropriate fee. To obtain a log-in and password to the PACER system, contact the PACER Service Center at [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov).

*Cross-References:*

[LBR 5005-4](#) (*Electronic Filing*)

[AO 5005-4](#) (*Electronic Filing*)

PACER Service Center web site [www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)

## **LBR 5005-4 Electronic Filing**

- (a) *Acceptance of Electronically Filed Pleadings.* The court will accept for filing documents submitted, signed or verified by electronic means that comply with procedures established by the court in *AO 5005-4* for its Case Management/Electronic Case Files (“CM/ECF”) system. This system receives documents filed in electronic form.
- (b) *Terms.* The term “Filing User” is used to refer to those who have a court-issued log-in and password to file documents electronically. The term “Notice of Electronic Filing” is used to refer to the notice automatically generated by the CM/ECF system each time a document is filed.
- (c) *Scope of Electronic Filing.* All cases and pleadings filed after April 1, 2002, are part of the court’s CM/ECF system. All attorneys admitted to the bar of this court (including those admitted *pro hac vice*), United States trustees and their assistants, trustees and others as the court deems appropriate, must register as Filing Users of the court’s CM/ECF system. All petitions, motions, memoranda of law or other pleadings and documents required to be filed must be filed electronically, except as expressly provided and in circumstances where the Filing User is prevented from filing electronically, e.g., the CM/ECF system is down.
- (d) *Public Access.* Any person or organization, other than one registered as a Filing User under paragraph (b) of this rule, may access the CM/ECF system at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov) by obtaining a PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but they may not file documents. In connection with the filing of any document in the CM/ECF system, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

Information posted on the CM/ECF system must not be downloaded for uses inconsistent with the privacy rights of any person.

### *Cross-References:*

[LBR 5005-5](#) (*Sealed Documents*)

[AO 5005-4](#) (*Electronic Filing*)

[LBF 5005-4](#) (*Declaration Regarding Electronic Filing*)

[LBF 9072-1](#) (*Order (Proposed)*)

## **LBR 5005-5 Sealed Documents**

A motion to file documents under seal, accompanied by a proposed order, must be filed electronically. As soon as practicable after the motion to seal is filed, the documents sought to be filed under seal are to be delivered to the clerk in a sealed envelope with a copy of the motion to seal and the notice of electronic filing affixed to the outside of the envelope. The court will issue an order on the motion to seal and, if granted, an informational entry will be made on the case docket indicating that sealed documents have been filed with the court.

## **LBR 5010-1 Reopening Cases**

A motion to reopen a case shall be in writing, on a separate document, and shall have attached a proposed order of the court authorizing the reopening. A motion to reopen to add additional creditors shall be verified or accompanied by an affidavit providing enough factual detail to justify the reopening as required by In re Corbett, 425 B.R. 51 (Bankr. D.N.H. 2010). The court will consider whether to act *ex parte* on the reopening or whether a hearing will be required. Any additional relief requested, if the case is reopened, shall be set forth by separate pleadings.

Unless otherwise ordered, any case reopened will be closed 120 days after the order granting the motion to reopen.

## **LBR 5011-1 Withdrawal of Reference**

As provided in the advisory committee note to Bankruptcy Rule 5011 and LR 77.4, a motion to withdraw the reference shall be filed with the bankruptcy clerk. Movants shall file, as an attachment to the motion, a properly completed United States District Court Civil Cover Sheet, and the filing fee as prescribed from time to time by 28 U.S.C. § 1930 shall be paid. Motions to withdraw the reference are governed by LR 77.4(e).

*Cross-References:*

[28 U.S.C. § 1930](#) (*Bankruptcy Fees*)

[LR 77.4](#) (*Bankruptcy*)

[LBR 5080-1](#) (*Fees — General*)

[LBR 5081-1](#) (*Fees — Form of Payment*)

## **LBR 5071-1 Continuance**

- (a) *Generally.* A trial, hearing or pretrial conference shall be continued only upon a motion and order of the court. Absent consent by all parties, notice of the motion shall be given to all other parties or their counsel before submission to the court.
- (b) *Alternative Hearing Date.* The party requesting a continuance shall obtain, in advance, a prospective alternate hearing date from the courtroom deputy and shall submit a proposed order with the motion, specifying the continued hearing date.

*Cross-Reference:*

[LBF 9072-1](#) (*Order (Proposed)*)

## **LBR 5072-1 Courtroom Decorum**

The following procedures are to be followed in all proceedings in open court:

- (a) *Objections.* All objections shall be stated with specificity prior to any argument or explanation of same, e.g., leading, hearsay, improper foundation, etc.



(b) *Witness Box.* During the testimony of a witness, attorneys shall not approach the witness box, except to present an exhibit to the witness pertinent to the examination and shall generally examine the witness from the lectern.

(c) *Exhibits.*

- (1) Unless otherwise ordered by the court, all documentary exhibits, or relevant parts thereof, to be used in the examination of a witness shall be prepared in sufficient quantity, i.e., one for the witness, the examining attorney, all opposing attorneys and two for the court (in addition to the original), for use in following the testimony.
- (2) The parties shall pre-mark each document or other exhibit in the order of its possible presentation at an evidentiary hearing or trial. Each document or other exhibit shall be given a separate exhibit number. The moving party, or plaintiff, shall number its exhibits with numbers 1, 2, 3, etc.; the opposing party, or defendant, shall number its exhibits with numbers 101, 102, 103, etc.; and additional parties shall number their exhibits with successive ordinal number series, e.g., 201, 301, 401, etc.
- (3) Any party submitting more than eight exhibits at an evidentiary hearing or trial shall place the exhibits in one or more binders with the exhibits separated by tabs. Each such binder shall be clearly identified on the outside cover or spine and shall contain a clear table of contents.
- (4) Failure to comply with the provisions of this rule may result in nonconforming exhibits not being admitted into evidence and/or sanctions against the person not complying with the provisions of this rule.

(d) *Preliminary Data.* When a witness takes the stand, the examining attorney may, subject to objection by opposing counsel, recite such background information as the attorney desires to present concerning the witness and the connection of the witness to the litigation, and then shall solicit a response from the witness as to the correctness thereof before proceeding with specific questions on the issues in controversy.

(e) *Prohibited Citations.* Attorneys and trustees appearing in any case pending in this court shall not make reference, in open court or in chambers, to any commercial legal publication written or edited by a judge of the court.

*Cross-Reference:*

[LBR 9070-1](#) (*Exhibits*)

## **LBR 5073-1 Photography, Recording Devices and Broadcasting**

The prohibition set forth in LR 83.8 is applicable with respect to proceedings in the United States Bankruptcy Court.

*Cross-Reference:*

[LR 83.8](#) (*Photographing; Broadcasting; Televising*)

## **LBR 5075-1 Clerk — Delegated Functions; Designation of Parties to Provide Notice**

- (a) Pursuant to Bankruptcy Rule 2002, the court designates as the party to give notice of the pleading and the hearing therefor, any party who by complaint, motion or other request however described, seeks an order or other relief from the court. Such plaintiff, movant or requesting party shall give notice to all parties in interest upon whom the granting of the requested order would have an adverse effect, but in any event notice shall always be given to:
- (1) All persons who have filed an appearance or request for notice.
  - (2) In a chapter 11 case, the creditors' committee, and any attorney for the committee or, if no committee has been appointed, to the twenty (20) largest unsecured creditors.
  - (3) The United States Trustee, the case trustee, if any, the debtor or debtor in possession and the debtor's attorney of record.
  - (4) If the order requested relates to the disposition of property, all creditors who hold or claim a security interest in the subject property by reason of a specific or general lien or encumbrance.
- (b) With respect to notice required pursuant to Bankruptcy Rule 2002, the designation set forth in paragraph (a) of this rule shall be in effect wherever its terms apply.
- (c) The clerk shall give notice of the initial date set for the § 341 meeting of creditors, but notice of any rescheduled § 341 meeting shall be by the party causing the meeting to be rescheduled. The clerk shall give such notice as required pursuant to Bankruptcy Rule 2002(a)(8) and 2002(f) except that the trustee shall serve the final report in a chapter 7 case. Notice required pursuant to Bankruptcy Rule 2002(b)(1) and 2002(b)(2) shall be given by the proponent of the plan of reorganization.

## **LBR 5076-1 Court Reporting**

The record of court proceedings shall be made by electronic recording except as otherwise ordered by the court in specific cases. The record shall be made and preserved by a deputy clerk designated by the clerk.

*Cross-Reference:*

[LBR 5077-1](#) (*Transcripts*)

## **LBR 5077-1 Transcripts**

- (a) *Ordering.* Official transcripts of the record of court proceedings may be obtained by arrangement with the clerk. Transcripts shall be prepared by a transcription service at the direction of the clerk. Payment for such transcripts shall be made directly to the transcription service. Checks made payable to the clerk, personally, or to the court will be refused.

*Filing.* Whenever a party orders a transcript, the original of said transcript shall be filed with the court and the party shall be furnished with the first copy.

*Cross-Reference:*

[LBR 5076-1](#) (Court Reporting)

### **LBR 5080-1 Fees — General**

When a fee is required for the filing of a document, it is the burden of the filing party to determine the appropriateness of the filing. Subsequent withdrawal of the matter filed does not give rise to circumstances permitting refunds. All filing fees are earned when paid. Requests for refunds on electronically filed and paid documents must be made by motion.

*Cross-References:*

[LBR 5081-1](#) (Fees — Form of Payment)

[AO 1006-1](#) (Fees — Installment Payments)

[AO 5080-1](#) (Fees — Request for Refund)

### **LBR 5081-1 Fees — Form of Payment**

The filing fee or any other required payment shall be paid by cash, check, money order, credit card or such electronic means as may be adopted by the clerk. Personal checks or credit cards of the debtor shall not be accepted. Cash should not be sent through the mail. Checks or money orders must be made payable only to “Clerk, U.S. Bankruptcy Court.”

*Cross-References:*

[LBR 5080-1](#) (Fees — General)

[AO 1006-1](#) (Fees — Installment Payments)

## **PART VI COLLECTION AND LIQUIDATION OF THE ESTATE**

### **LBR 6003-1 Applications to Employ Filed Within Twenty-One (21) Days of Petition**

- (a) *General.* Pursuant to Bankruptcy Rule 6003(a), the court will not approve any application for the employment of a professional person within twenty-one (21) days of the petition date, except to the extent that such relief is necessary to avoid immediate or irreparable harm.
- (b) *Procedure.* If a party files an application to employ a professional within twenty-one (21) days of the petition date, requesting that the application be granted within this 21-day period, the application must include the following:
- (1) The title of the application must include the word “Emergency.”
  - (2) The application must state with specificity the facts and circumstances that would cause immediate and irreparable harm, should the court not grant the application within the 21-day period.

If these two conditions are not met or if the application does not request that the court grant relief within the 21-day time period, the court will defer ruling on the application until after the twenty-first day following the petition date.

*Cross-Reference:*

[LBR 2014-1](#) (*Employment of Professionals*)

## **LBR 6004-1 Sale of Estate Property**

- (a) *Sale Procedure.* Unless otherwise ordered by the court, a sale free and clear of liens may be accomplished by means of a motion, provided the motion: (1) specifies the requisite information regarding the sale; (2) includes notice language that otherwise conforms to the requisites of § 102(1) of the Bankruptcy Code and Bankruptcy Rule 6004(a); and (3) affords creditors, parties in interest, and affected parties and lienholders not less than twenty-one (21) days' notice of the hearing date and of the opportunity to object to the proposed action (unless the court shortens the notice period upon appropriate request). Objections to such motions must be timely filed pursuant to Bankruptcy Rule 6004(b).
- (b) *All-Asset Sales.* "All-asset" sales (herein defined to mean the sale of all or substantially all of the assets of the estate) will not be approved by the court if submitted by a chapter 11 debtor in possession under § 363 of the Bankruptcy Code outside of a plan of reorganization unless the following requirements are satisfied:
- (1) The proposal for the all-asset sale outside of a plan of reorganization and a proposed form of notice of same is first submitted to the court on a motion for approval of such procedure with notice to the United States Trustee, any creditors' committee or, in the absence of a committee, the twenty (20) largest unsecured creditors and any parties who have filed their appearances in the case, followed by a preliminary hearing before the court to consider approving such procedure.
  - (2) The proposed form of notice will serve as a functional equivalent for the type of disclosure that would be required if the sale were embodied in a plan of reorganization under § 1125 of the Bankruptcy Code.
  - (3) Good cause is shown to justify the proposed method of disposing of the entire estate.
- (c) *Persons Prohibited from Purchasing Estate Property.* The following persons shall not, directly or indirectly, purchase property from any bankruptcy estate:
- (1) Employees of the bankruptcy court.
  - (2) Any person who is serving as trustee, disbursing agent, appraiser, auctioneer, examiner, accountant or attorney for a trustee in any matter before the court.

Sales or purchases made in violation of this section (c) are unauthorized and no title shall pass by reason thereof.

## **LBR 6006-1 Executory Contracts**

Whenever a motion for approval of assumption or rejection of an unexpired lease of nonresidential real property, i.e., a commercial lease, is filed within the period established under § 365(d)(4) of the Bankruptcy Code, and it appears that the court's calendar will not permit the motion to be heard within that period, it shall be the duty of the movant to submit with the motion for approval of assumption or rejection a proposed form of order for *ex parte* entry granting an extension of time to a date certain to assume or reject the lease sufficient for the court to hear and resolve said motion. This action is required to avoid a contention of forfeiture of a lease under the proviso in § 365(d)(4)(A) to the effect that the lease is deemed rejected if not assumed within the period set out in the statute.

## **LBR 6007-1 Abandonment**

- (a) *Notice of Intent to Abandon Property.* The trustee or debtor in possession shall file notice of any proposed abandonment of property with the clerk. Upon receipt thereof, the clerk shall transmit, or cause to be transmitted, notice of the proposed abandonment to all entities in the manner specified in Bankruptcy Rule 6007(a).
- (b) *Hearing on Objections to Abandonment.* Upon receipt of an objection to a proposed abandonment, the court shall set a hearing. The clerk shall issue a form of notice of hearing to be sent to the trustee, the objecting party, the United States Trustee, the debtor, the debtor's attorney and to all parties filing an appearance in the case.
- (c) *Effective Date of Abandonment.* If no objection to a notice of intent to abandon is made within fourteen (14) days of the mailing of the notice of proposed abandonment by the clerk, then the property shall be deemed abandoned. Thereafter, the trustee or debtor in possession may obtain, upon request, a clerk's certificate setting forth the following: (1) the date of the filing of the notice of intent to abandon, (2) the name of the party who filed the notice of intent to abandon, (3) that proper service was issued in compliance with the requirements of these rules, (4) that no objection to the notice of intent to abandon has been filed, and (5) that the court deems the property to be abandoned without further order or hearing.

## **PART VII-A ADVERSARY PROCEEDINGS**

### **LBR 7003-1 Cover Sheet**

When an adversary complaint is filed, the required adversary proceeding cover sheet shall be filed as an attachment to the complaint. The adversary proceeding cover sheet shall include the complete names and addresses of each plaintiff and defendant and may be attached as a separate sheet.

### **LBR 7004-1 Service of Process**

The movant shall ensure that the summons and complaint are served in accordance with Bankruptcy Rule 7004.

## **LBR 7004-2 Summons**

The filing of a complaint, the issuance of a summons and service thereof shall be governed solely by Bankruptcy Rule 7004. The clerk shall issue, execute and transmit to the plaintiff or plaintiff's attorney an appropriate summons.

## **LBR 7007-1 Motion Practice In Adversary Proceedings**

Apart from the initial filing of the adversary complaint and answer thereto, the procedures and formats for all motions in adversary proceedings shall comply with the requirements set forth in *Part VII-B* of these *LBRs*.

## **LBR 7016-1 Pretrial Procedures**

- (a) *Scheduling*. Upon the filing of an adversary complaint, the court shall, on its own accord and in conformity with Federal Rule of Civil Procedure 16, made applicable to adversary proceedings by Bankruptcy Rule 7016, schedule a pretrial conference.
- (b) *Subjects for Consideration*. The court may consider and take appropriate action on:
- (1) Any matter referenced in the discovery plan filed by the parties pursuant to *LBR 7026-1*.
  - (2) Bifurcation of trial.
  - (3) Memoranda, motions or other documents to be filed with the final pretrial statement pursuant to *LBR 7016-2*.
  - (4) Any other subject listed in Federal Rule of Civil Procedure 16(c).
- (c) *Cancellation of Pretrial Conferences*. Preliminary pretrial conferences scheduled in accordance with this *LBR* may be canceled by the court if:
- (1) The defendant has failed to file an answer, and the court has entered a default; or
  - (2) The defendant has filed an answer, and the parties submit to the court a joint written report outlining the parties' discovery plan, as required by *LBR 7026-1(f)(2)*, at least seven (7) days before a scheduled preliminary pretrial conference, and the court has issued a pretrial scheduling order.
- (d) *Alternative Dispute Resolution*. In accordance with the Alternative Dispute Resolution Act of 1998, the court encourages parties to engage in alternative dispute resolution. See 28 U.S.C. §§ 651-658. If the parties agree to participate in alternative dispute resolution, they may contact the courtroom deputy of the judge assigned to the case in chief or adversary proceeding for assistance.

*Cross-References:*

[\*LBR 7016-2\*](#) (*Final Pretrial Statements*)

[\*LBR 7026-1\*](#) (*Discovery — General*)

## **LBR 7016-2 Final Pretrial Statements**

- (a) *Final Pretrial Statements.* Unless otherwise ordered by the court, parties shall file final pretrial statements no later than seven (7) days before the final pretrial conference or the commencement of the trial if no final pretrial is held. The parties are encouraged to file a joint final pretrial statement.
- (b) *Contents of Final Pretrial Statements.* Unless otherwise ordered by the court, final pretrial statements shall contain:
- (1) A brief statement of the case assented to by all parties.
  - (2) A complete written stipulation of all contested and uncontested facts or, if counsel cannot agree, separate statements of the same by each party.
  - (3) A complete written stipulation of the applicable law and any disputed issues of law or, if counsel cannot agree, separate statements of the same by each party.
  - (4) The name and, if not previously provided, the address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises.
  - (5) A written waiver of claims or defenses, if any.
  - (6) A list of all depositions which may be read into evidence.
  - (7) A list of all exhibits to be offered at trial separately identifying those which the party expects to offer and those which the party may offer if the need arises (exhibits intended to be used solely for impeachment need not be listed).
  - (8) A statement of any claim for attorneys' fees, if applicable, with citation to the statutory and/or regulatory authorities relied upon as the basis for the claim.
  - (9) An estimate of the length of trial.
- (c) *Documents to Accompany Final Pretrial Statements.* Each party shall also file such memoranda, motions and other documents with the final pretrial statement as ordered by the court.
- (d) *Objections.* Unless otherwise ordered by the court, objections to exhibits and motions in limine shall be filed no later than two (2) days prior to the commencement of trial.

### *Cross-References:*

[LBR 5072-1](#) (*Courtroom Decorum*)

[LBR 7016-3](#) (*Final Pretrial Conferences*)

### **LBR 7016-3 Final Pretrial Conferences**

- (a) *Scheduling.* The court may schedule a final pretrial conference.
- (b) *Attendance.* Counsel and all unrepresented parties shall attend unless otherwise ordered by the court.
- (c) *Subjects for Consideration.* In addition to the subjects listed in Federal Rule of Civil Procedure 16(c), the court may consider and take appropriate action on the following subjects:
- (1) Evidentiary problems, including admissibility of exhibits, motions *in limine*, expert witnesses, and elimination of cumulative evidence.
  - (2) Order of presentation in multi-party cases.
  - (3) Order of witnesses.
  - (4) Contested issues of law.
  - (5) Stipulations of uncontested fact.
  - (6) Possibility of settlement.
  - (7) Length of trial and imposition of time limits.
- (d) *Objection to Videotape Testimony.* A party objecting to a question or an answer in videotaped testimony shall provide the court with a transcript of the question or answer at issue during the final pretrial conference.

*Cross-References:*

[LBR 5072-1](#) (*Courtroom Decorum*)

[LBR 7016-2](#) (*Final Pretrial Statements*)

### **LBR 7016-4 Altering Deadlines**

- (a) *Deadlines Established by the Court.* Deadlines established by the court shall not be changed by agreement without court approval.
- (b) *Discovery Deadlines.* A stipulation extending the time within which to respond or object to a discovery request or to take a deposition need not be approved by the court provided the extended date by which the response is due or on which the deposition is to be taken is prior to the discovery completion date established for the case or at least thirty (30) days prior to the date set for the final pretrial conference or the commencement of the trial, whichever is earlier.

*Cross-Reference:*

[LBR 9071-1](#) (*Stipulations; Affidavits of Noncompliance*)



## **LBR 7024-2 Claim of Unconstitutionality**

To enable the court to comply with 28 U.S.C. § 2403, whenever any action, suit or proceeding to which the United States or any agency, officer or employee thereof is not a party, and the constitutionality of any Act of Congress affecting the public interest is drawn into question, the party raising such question shall give written notice to the court giving the title of the case, a reference to the questioned statute sufficient for its identification and the respects in which it is claimed to be unconstitutional.

## **LBR 7026-1 Discovery — General**

- (a) *Initial Disclosures.* Except to the extent otherwise stipulated or directed by order, parties shall make initial disclosures as required by Federal Rule of Civil Procedure 26(a)(1) without awaiting a discovery request. These disclosures must be made at or within fourteen (14) days after the conference of the parties required by Bankruptcy Rule 7026 and *LBR 7026-1(f)* or except as otherwise provided by Federal Rule of Civil Procedure 26(f). Any party first served or otherwise joined after the Rule 26(f) conference must make these disclosures within thirty (30) days after being served or joined unless a different time is set by stipulation or court order.
- (b) *Expert Testimony.* Parties shall make such disclosures under Federal Rule of Civil Procedure 26(a)(2)(B) as may be ordered by the court, and the other disclosures under Federal Rule of Civil Procedure 26(a)(2) when ordered by the court or, if the court has not established the time for disclosure, at the time set by Federal Rule of Civil Procedure 26(a)(3).
- (c) *Pretrial Disclosures.* Parties shall make disclosures mandated by Federal Rule of Civil Procedure 26(a)(3) and file objections thereto when such disclosure is mandated by *LBR 7016-2*.
- (d) *Form of Disclosure; Filing.* The disclosures mandated by Federal Rule of Civil Procedure 26(a)(1), (2) and (3) shall be in writing and shall be signed and served on all parties. Parties shall not file disclosures mandated by Federal Rule of Civil Procedure 26(a)(1) and (2) unless filing is required by court order.
- (e) *Limits on Depositions and Interrogatories.* The presumptive limits in Federal Rules of Civil Procedure 30(a), 31(a) and 33(a) regarding the number of depositions and interrogatories apply to all adversary proceedings in the court, except:
  - (1) As otherwise stipulated by the parties in writing.
  - (2) Pursuant to Federal Rule of Civil Procedure 26(b)(2), the court may alter the discovery limits prescribed by the Federal Rules of Civil Procedure. Parties shall discuss issues pertaining to limits on discovery at the planning conference required by *LBR 7016-1* and shall attempt to stipulate to exceptions to discovery limits. If the parties do not so stipulate, parties may request exceptions to discovery limits at the preliminary pretrial conference held pursuant to *LBR 7016-1*.
- (f) *Conference of Parties; Planning for Discovery.*
  - (1) Except when otherwise ordered, at least twenty-one (21) days before the preliminary pretrial conference, the parties shall confer to consider the subjects listed in Federal Rules of Civil Procedure 16(c) and 26(f), to make or arrange for the disclosure required by Federal Rule of

Civil Procedure 26(a)(1) and to develop a proposed discovery plan. The parties may agree to hold their meeting by telephone. The discovery plan shall include the parties' positions on:

- (A) Any changes that should be made in the timing, form or requirement for disclosures under Federal Rule of Civil Procedure 26(a), including a statement as to when disclosures under Federal Rule of Civil Procedure 26(a)(1) were made or will be made.
- (B) Any subjects on which discovery may be needed, when discovery should be completed and whether discovery should be conducted in phases or be limited to or focused upon particular issues.
- (C) Any changes that should be made in the limitations on discovery under the Federal Rules of Civil Procedure, including limitations established by Federal Rules of Civil Procedure 30(a), 31(a) and 33(a), and any other limitations the court should order.
- (D) Other orders that should be entered under Federal Rules of Civil Procedure 26(c) or 16(b) and (c).

(2) The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging the conference, for attempting in good faith to agree on the proposed discovery plan and for submitting to the court within fourteen (14) days after the conference, but in any event no later than seven (7) days before a scheduled preliminary pretrial conference, a written report outlining the discovery plan.

(3) Except as agreed upon by the parties, ordered by the court or provided by Federal Rule of Civil Procedure 26(a)(1), parties shall not seek discovery pursuant to Federal Rule of Civil Procedure 26 before the parties have held a planning conference as required by this rule.

*(g) Filing of Discovery Materials with Court.* Parties shall not file discovery materials with the court unless otherwise ordered.

*(h) Form of Discovery Documents.* Parties serving interrogatories, requests for production of documents or things or requests for admissions shall provide appropriate space for the response. Parties answering these discovery requests shall either respond in the space provided or reproduce each interrogatory or request immediately preceding the response. Parties shall number all discovery requests and responses sequentially regardless of the number of different sets.

*Cross-References:*

[LBR 4001-1](#) (*Automatic Stay — Relief From*)

[LBR 7016-1](#) (*Pretrial Procedures*)

[LBR 7016-2](#) (*Final Pretrial Statements*)

[LBR 9014-1](#) (*Contested Matters*)

## **LBR 7055-1 Default — Failure to Prosecute**

When a defendant has failed to answer a properly served summons by the answer deadline, the court, upon request by the plaintiff, may issue an order entering default. The order entering default shall set a deadline for the filing of a motion for default judgment and a hearing date and time. After the order noting default

has been entered, the plaintiff shall file a motion for default judgment accompanied by an affidavit setting forth:

- (a) The amount due, if any.
- (b) Whether the defendant is an infant or incompetent person.
- (c) The defendant's military service status in accordance with the requirements of 50 U.S.C. Appx. § 521.

The plaintiff shall serve on the defendant the motion, the affidavit, a proposed order, a proposed final judgment and a notice of the hearing.

*Cross-References:*

[AO 9012-1](#) (*Compliance with Servicemembers Civil Relief Act*)

[LBF 7055-1](#) (*Default — Failure to Prosecute*)

[LBF 9021-1A](#) (*Final Judgment (General)*)

[LBF 9021-1B](#) (*Final Judgment (Stipulation/Settlement)*)

[LBF 9021-1C](#) (*Final Judgment (Sum Certain)*)

## **LBR 7056-1 Summary Judgment**

*(a) Moving Party.*

- (1) *Supporting Documents Required.* With each motion for summary judgment filed under Bankruptcy Rule 7056, the moving party shall serve and file the following:
  - (A) A separate supporting memorandum of law.
  - (B) A separate statement of material facts as to which the moving party contends there is no genuine dispute and that entitles the moving party to judgment as a matter of law and that also includes:
    - (i) A description of the parties.
    - (ii) All facts supporting venue and jurisdiction in this court.
  - (C) Any affidavits and other materials referred to in Federal Rule of Civil Procedure 56(c)(1)(A).
- (2) *Form — Statement of Facts.* The separate statement of facts shall consist of short numbered paragraphs, including within each paragraph specific references to the affidavits, parts of the record and other supporting materials relied upon to support the facts set forth in that paragraph. Failure to submit such a statement constitutes grounds for denial of the motion.
- (3) *Subsequent Filings by Moving Party.* If additional material facts are submitted by the opposing party pursuant to paragraph (b), the moving party may submit a concise reply in the form prescribed in paragraph (b)(1)(B) for response. All material facts set forth in the opposing party's statement filed under paragraph (b)(1)(B)(ii) will be deemed admitted unless controverted by the statement of the moving party.

*(b) Opposing Party.*

- (1) Supporting Documents Required.* With each objection to a motion for summary judgment filed under Bankruptcy Rule 7056, the opposing party shall serve and file the following:
  - (A)* A separate supporting memorandum of law.
  - (B)* A separate, concise response to the movant's statement of facts that shall contain:
    - (i)* A response to each numbered paragraph in the moving party's statement, including, in the case of any disagreement, specific references to the affidavits, parts of the record and other supporting materials relied upon.
    - (ii)* A statement, consisting of short-numbered paragraphs, of any additional facts that require the denial of summary judgment, including references to the affidavits, parts of the record and other supporting materials relied upon.
  - (C)* Any opposing affidavits and other materials referred to in Federal Rule of Civil Procedure 56(c)(1)(A)).
- (2) Effect.* All material facts set forth in the statement required of the moving party will be deemed to be admitted unless controverted by the statement of the opposing party.

*(c) Hearing Date.* Prior to filing the motion for summary judgment, counsel shall contact the courtroom deputy of the judge assigned to the case to obtain a hearing date. Upon the filing of a motion for summary judgment, deadlines as set forth in the pretrial order are stayed until the ruling on the motion. A new trial date will be scheduled, if necessary, upon issuance of the summary judgment order.

*Cross-Reference:*

[LBR 7101](#) (*Motion Procedure*)

## **LBR 7064-1 Seizure of Person or Property**

In accordance with Federal Rule of Civil Procedure 64, all remedies providing for seizure of person or property for the purpose of securing satisfaction of a judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by New Hampshire state law subject to the qualifications set forth in Federal Rule of Civil Procedure 64. New Hampshire Revised Statute Annotated 511-A and the New Hampshire Superior Court's rules and forms, with appropriate adaptation, shall apply and be followed.

## **PART VII-B MOTION PRACTICE GENERALLY**

### **LBR 7101 Motion Procedure**

*(a) Generally.* Motion practice refers to all requests for entry of an order by the court other than adversary proceedings covered by Bankruptcy Rules 7001-7087 and *Part VII-A* of these *LBRs*. The reference to

“motions” herein is intended to cover all such requests for an order by the court, whether denominated a “motion,” an “application,” or an “objection to claim” in accordance with the particular rule or statutory provision involved.

- (b) *Hearing Dates.* Counsel are directed, prior to submission of moving papers requiring a hearing, to contact the courtroom deputy of the judge assigned to the case in chief or adversary proceeding for which a hearing is sought to reserve a time certain for the hearing on the motion or application, subject to exceptions that are established by the court from time to time. (For example, motions for relief and motions to avoid lien are governed by *LBRs 4001-1* and *4003-2*, respectively.) The telephone numbers for the court’s courtroom deputies are set forth on the court’s web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov).
- (c) *Filing Deadline.* Upon being given a reserved time and date certain on the calendar, the party seeking the hearing shall file with the clerk the original pleading to be heard along with a notice of hearing, certificate of service and proposed order. Notwithstanding the foregoing, proposed orders are not required when filing motions for relief (see *LBR 9072-1(a)*).

*Cross-References:*

[LBR 1017-2](#) (*Dismissal or Suspension — Case or Proceeding*)

[LBR 7007-1](#) (*Motion Practice In Adversary Proceedings*)

[LBR 9072-1](#) (*Orders — Proposed*)

[LBF 9072-1](#) (*Order (Proposed)*)

## **LBR 7102 Motion Content**

(a) *Form.*

- (1) *Title.* Motions shall be considered only if submitted separately from other filings. The caption of every pleading shall include a brief designation of the character of the pleading. The caption, or the first sentence of the motion, shall also identify the party submitting same and its relationship to the estate.
- (2) *Chapter of Case.* All pleadings shall include in their style or reference, following the case number, the chapter of the case involved, e.g., Chapter 7, 9, 11, 12, 13 or 15, as applicable.
- (3) *Judge Initials.* The initials of the judge assigned to the pending matter shall be separated by a hyphen immediately following the case or adversary number for the pending matter.
- (4) *BNH Identification.* All pleadings shall contain, after counsel’s signature, the BNH identification number assigned to counsel by the clerk.

(b) *Pleadings Required.*

- (1) *Motion.* A motion shall be filed to request any action by the court.
- (2) *Memorandum and Supporting Documents.* Every motion and objection may be accompanied by a memorandum with citations to supporting authorities or a statement explaining why a memorandum is unnecessary. Every motion and objection that requires consideration of facts not in the record may be accompanied by affidavits or other documents showing those facts.

Except by prior leave of the court, no memorandum in support of, or in opposition to, a nondispositive motion shall exceed fifteen (15) pages, and no memorandum in support of, or in opposition to, a dispositive motion shall exceed twenty-five (25) pages.

- (3) *Proposed Orders.* The initiating motion shall be accompanied by a proposed form of order for the relief requested. The form of order shall also include a line for the judge's signature and a line for the date, i.e., "Date: \_\_\_\_\_" [court to insert date]. The proposed order shall be entitled "Order," not "Proposed Order." Any motion filed without a proposed order may be denied without prejudice. (See *LBF 9072-1*.)

(c) *Time for Response.* Except as otherwise required by law or order of the court,

- (1) Any objection or response to a motion, except a motion for summary judgment, must be filed no later than seven (7) days prior to the date set for hearing.
- (2) Any objection or response to a motion for summary judgment must be filed no later than thirty (30) days from the date the motion is filed.
- (3) Any objection or response to a motion, which is scheduled for hearing less than seven (7) days from the date the motion is filed, must be filed no later than 12:00 noon (EST or EDT, as applicable) on the business day prior to the date set for hearing.

(d) *Concurrence.* If the moving party has obtained concurrence in the relief sought, a statement of concurrence shall be included in the body of the motion so the court may consider it without delay. If concurrence has been obtained, the motion shall also contain the words "assented-to" in its title.

(e) *Extensions.* All motions for extension of time shall state: (1) the new date requested; (2) whether previous applications for extension of time on the matter have been requested, including the number and length of previous extensions; and (3) whether the opposing party or parties in interest agree or object to the requested extension. If the extension request is filed in an adversary proceeding, and the pretrial/trial date is affected, counsel must contact the courtroom deputy to obtain an alternate hearing date prior to filing the motion.

*Cross-References:*

[LBR 9004-2](#) (*Caption — Papers, General*)

[LBR 9072-1](#) (*Orders — Proposed*)

[LBF 9072-1](#) (*Order (Proposed)*)

## **LBR 7103 Certificate of Service — Motions**

(a) *Certificates of Service.* All pleadings other than the initiating complaint in an adversary proceeding shall include a certificate of service. The certificate of service shall identify:

- (1) the document served,
- (2) the manner of service,
- (3) the date of service,

- (4) the name and complete mailing address of every person or class of persons served by mail or other non-electronic means, and
- (5) a statement that all parties appearing electronically have been served in accordance with *LBR 5005-4*.

(b) *Persons to be Noticed.* In all cases, notice shall be sent to the parties designated by the clerk pursuant to *LBR 5075-1* and to any other parties as may be required by the Bankruptcy Code, the Bankruptcy Rules, the *LBRs* and the *AOs*. Moving parties should take particular note of Bankruptcy Rule 7004, which includes specific rules for serving governmental parties and federally insured depository institutions.

(c) *Copy of Certificate.* A copy of the certificate of service and the service list shall be served on all parties who are served with the pleading itself, unless otherwise specified by a standing procedural order in a particular case.

(d) *Signature.* Certificates signed by non-attorneys shall be made under penalty of perjury. Notwithstanding the requirements of *AO 5005-4(d)*, such certificates shall not trigger the requirements for filing a Declaration Regarding Electronic Filing. Certificates by attorneys are subject to Bankruptcy Rule 9011.

(e) *Failure to Comply.* The pleading may be denied without prejudice for failure to comply with this rule.

*Cross-References:*

[\*LBR 2002-1\*](#) (*Notice to Creditors and Other Interested Parties*)

[\*LBR 5005-4\*](#) (*Electronic Filing*)

[\*LBR 5075-1\*](#) (*Clerk — Delegated Functions; Designation of Parties to Provide Notice*)

[\*LBR 9004-1\*](#) (*Papers— Requirements of Form*)

[\*AO 5005-4\*](#) (*Electronic Filing*)

## **LBR 7104 Notice of Hearing**

All moving pleadings of whatever nature related to a scheduled hearing shall be accompanied by an appropriate notice of hearing. At a minimum, the notice of hearing shall include the title of the pleading scheduled for hearing, the court's address, courtroom number and a deadline for filing objections to the pleading scheduled for hearing.

## **PART VIII APPEALS TO DISTRICT COURT OR BANKRUPTCY APPELLATE PANEL**

### **LBR 8003-1 Notice of Appeal**

(a) *Filing of Appeals.* Unless an election to the United States District Court for the District of New Hampshire is filed with the court, an appeal from a final order or judgment or decree of the court shall be taken to the United States Bankruptcy Appellate Panel for the First Circuit as provided by 28 U.S.C. § 158(a) and Part VIII of the Bankruptcy Rules and shall be made by filing a notice of appeal with the clerk of the bankruptcy court, substantially in the form of Official Bankruptcy Form 417A, within the

time allowed by Bankruptcy Rule 8002. Direct appeals to the First Circuit as provided by 28 U.S.C. § 158(d)(2) are governed by Bankruptcy Rule 8006 and other provisions in Part VIII of the Bankruptcy Rules.

(b) *Extending Time to Appeal.* As provided in Bankruptcy Rule 8002(d) and in accordance with LR 77.4(d)(1), the bankruptcy court shall hear motions to extend the time for filing a notice of appeal.

*Cross-Reference:*  
[LR 77.4](#) (Bankruptcy)

### **LBR 8004-1 Motion for Leave to Appeal**

The United States District Court for the District of New Hampshire and the United States Bankruptcy Appellate Panel for the First Circuit have jurisdiction over appeals from interlocutory orders and decrees of the court, but only by leave of the district court or bankruptcy appellate panel under 28 U.S.C. § 1334(b). Leave to appeal under 28 U.S.C. § 1334(b) shall be sought by filing a motion pursuant to Bankruptcy Rule 8004.

### **LBR 8005-1 Election for District Court Determination of Appeal**

Unless an election to have the appeal heard by the United States District Court for the District of New Hampshire is filed within the time prescribed by 28 U.S.C. § 158(c)(1), the appeal shall be heard by United States Bankruptcy Appellate Panel for the First Circuit.

### **LBR 8007-1 Stay Pending Appeal**

The filing of a notice of appeal does not stay the operation of the appealed order. All parties are required to comply with the provisions of the order in the absence of a stay even though compliance may ultimately render the appeal moot. Appellants seeking a stay pending appeal must comply with the provisions of Bankruptcy Rule 8007. See also 11 U.S.C. §§ 363(m), 364(e) and 921(e).

## **PART IX GENERAL PROVISIONS**

### **LBR 9004-1 Papers — Requirements of Form**

- (a) *Chapter Number.* All pleadings shall include in their style or reference, following the case number, the chapter of the case involved, e.g., Chapter 7, 9, 11, 12, 13 or 15, as applicable.
- (b) *Assigned Judge.* The initials of the judge assigned to the pending matter shall be separated by a hyphen immediately following the case or adversary number for the pending matter.
- (c) *BNH Number.* All pleadings shall contain, after counsel's signature, the BNH identification number assigned to counsel by the clerk.
- (d) *Citation of Prior Orders.* Any pleading filed with this court that refers to a prior order of the court shall



either state the court document number of the order referred to or have attached to it a true and correct copy of such order.

- (e) *Prohibited Citations.* No pleading or other paper filed with this court shall make reference to any commercial legal publication written or edited by a judge of this court.
- (f) *Signed Originals.* Whenever a pleading or other document is required to be filed, such filing shall be effective only upon receipt and date-stamping of a signed original document, unless such pleading or document has been electronically filed in accordance with *LBR 5005-4*.
- (g) *Electronic Filing.* Electronically transmitted facsimiles or other substitute copies of documents shall not be construed to be signed original pleading documents, unless such pleading or document has been electronically filed in accordance with *LBR 5005-4*.

*Cross-References:*

[LBR 1070-1](#) (*Jurisdiction*)

[LBR 5005-4](#) (*Electronic Filing*)

[LBR 7103](#) (*Certificate of Service — Motions*)

[LBR 9004-2](#) (*Caption — Papers, General*)

[AO 5005-4](#) (*Electronic Filing*)

## **LBR 9004-2 Caption — Papers, General**

- (a) *Generally.* The caption of every pleading shall include a brief designation of the character of the pleading. The caption, or the first sentence of the document, shall also identify the party submitting same and its relationship to the estate.
- (b) *Consolidated/Jointly Administered Cases.* Pleadings filed in a consolidated or jointly administered case shall contain a caption in the form ordered by the court in connection with the granting of the motion for consolidation or joint administration. The caption shall indicate, following the listing of the debtors, the phrase “substantively consolidated” or “jointly administered,” whichever is appropriate.

*Cross-References:*

[LBR 1015-1](#) (*Joint Administration/Consolidation*)

[LBR 4001-1](#) (*Automatic Stay — Relief From*)

[LBR 4001-2](#) (*Cash Collateral*)

[LBR 4003-2](#) (*Lien Avoidance*)

## **LBR 9010-1 Attorneys — Notice of Appearance**

- (a) *Automatic Appearance.* The signature of an attorney for a petitioner on a bankruptcy petition or the signature of an attorney on a complaint or document in a bankruptcy case, constitutes a notice of appearance pursuant to Bankruptcy Rule 9010 and constitutes a certification that the attorney is authorized to practice in the United States District Court for the District of New Hampshire.
- (b) *Proofs of Claim.* Notwithstanding paragraph (a) above, the signature of an attorney for a claimant on a proof of claim does not constitute a notice of appearance.

(c) *Appearance by Notice.* Any attorney other than the debtor's attorney who wishes to receive copies of notices generally sent to creditors in a case shall file a separate document entitled "Appearance" that sets forth the attorney's name, address, telephone number, client's name and relationship to the estate.

*Cross-Reference:*

[LBR 2090-1](#) (*Attorneys Admitted to Practice*)

## **LBR 9010-2 Power of Attorney; Guardians; Conservators**

If a bankruptcy case is commenced on behalf of a debtor by a representative, i.e., an agent, attorney in fact, proxy, guardian, or conservator, the following procedural requirements shall be met to ensure that the petition has been properly filed.

- (a) A copy of the legal document under which the representative is acting must be filed with the petition so that the court may determine whether the representative's actions fall within the scope of the representative's authority. In the case of an agent, attorney in fact, or proxy, a power of attorney shall be filed with the court. In the case of a guardian or conservator, the court order appointing the guardian or conservator shall be filed with the court.
- (b) The petition, schedules, statements, and other documents in the case shall be properly executed by the representative in a manner which reflects the representative capacity of such person. Both the debtor's and the representative's mailing addresses shall be filed with the court.
- (c) The representative shall appear at the meeting of creditors so that the representative can state on the record the reasons for commencing the case in this manner and answer any questions of the trustee.

## **LBR 9011-2 Pro Se Parties**

The signature of an individual not represented by counsel on a bankruptcy petition, complaint or pleading shall constitute a *pro se* appearance. A *pro se* party may not authorize another person who is not a member of the bar of the United States District Court for the District of New Hampshire to appear on his or her behalf. This includes a spouse or relative and any other party on the same side who is not represented by an attorney. In accordance with LR 83.6(c), corporations, trusts, limited liability companies and unincorporated associations may not appear *pro se*.

*Cross-References:*

[LR 83.6](#) (*Appearances*)

[LBR 1004-1](#) (*Petition — Partnership*)

[LBR 1004-2](#) (*Petition — Corporation*)

[LBR 1004-3](#) (*Petition — Trust, Limited Liability Company*)

## **LBR 9011-3 Sanctions**

If counsel for any party, without justifiable excuse, fails to appear before the court at a hearing to complete necessary preparations or to be prepared to proceed to trial at the time set, the defaulting party and counsel

may be subject to sanctions, including the recovery of fees and expenses of the other party or parties which were incurred as a result of such failure.

#### **LBR 9014-1 Contested Matters**

(a) *No Discovery.* The court directs that Bankruptcy Rule 7026 and LBR 7026-1 shall not apply to contested matters governed by Bankruptcy Rule 9014 unless otherwise ordered. The clerk, having given notice to all parties of the adoption of these *LBRs*, is hereby deemed to have complied with the obligations of the clerk imposed by Bankruptcy Rule 9014 with respect to notifying parties that Bankruptcy Rule 7026 is not applicable to contested matters.

(b) *Service.* The movant shall ensure that moving pleadings are served in accordance with Bankruptcy Rule 7004, made applicable by Bankruptcy Rule 9014(b).

*Cross-Reference:*

[LBR 7026-1](#) (*Discovery — General*)

#### **LBR 9019-1 Settlements and Agreed Orders**

Counsel shall notify the court immediately upon the settlement of a proceeding or motion. If, by the date set for the trial/evidentiary hearing, counsel have not submitted a motion and a proposed order approving the settlement and disposing of the proceeding or motion, then counsel shall appear at the time of the scheduled hearing, unless otherwise ordered by the court, and shall state the settlement on the record. Unless otherwise ordered by the court, failure to file a motion and a proposed order approving the settlement within seven (7) days of the date set for the trial/evidentiary hearing shall be cause for dismissal of the proceeding or denial of the motion for want of prosecution, without further notice.

#### **LBR 9021-1 Judgments and Orders — Entry of**

Pursuant to Bankruptcy Rule 9021, no final disposition of an adversary proceeding is effective until a judgment is entered on a separate document except when a case is dismissed by notice or order under Federal Rule of Civil Procedure 41(a). Accordingly, all stipulations or proposed orders submitted to dispose of an adversary proceeding shall be accompanied by a short separate final judgment incorporating by reference the provisions of the dispositive stipulation or order and shall be substantially in the form of *LBFs 9021-1A, B or C*.

*Cross-References:*

[LBF 9021-1A](#) (*Final Judgment (General)*)

[LBF 9021-1B](#) (*Final Judgment (Stipulation/Settlement)*)

[LBF 9021-1C](#) (*Final Judgment (Sum Certain)*)

#### **LBR 9029-1 Local Rules — General**

(a) *Scope of Rules.* These *LBRs* are prescribed pursuant to Bankruptcy Rule 9029, LR 77.4(b) and 28 U.S.C. § 2071(a) and have been adopted in compliance with 28 U.S.C. §§ 332(d)(4), 2071(b) and 2071(d) to govern the practice and procedure before the United States Bankruptcy Court for the District

of New Hampshire. All prior *LBRs* and *AOs* are repealed, except *IBRs 1007-1* and *5012*, as amended, and any standing procedural administrative orders that relate only to a specific case. To the extent that a conflict appears or arises between the *LBRs* and *AOs* of this court and any rules of the United States District Court for the District of New Hampshire or any bankruptcy rules promulgated by the Supreme Court of the United States, the latter rules shall govern.

(b) *Effective Date.* These rules become effective on November 1, 2016.

(c) *Definitions.*

(1) “Attorney” or “counsel” includes any party appearing *pro se*.

(2) “Clerk” or “clerk’s office” means the clerk of the United States Bankruptcy Court for the District of New Hampshire and deputy clerks unless the context dictates otherwise.

(3) “Court” means the bankruptcy judge to whom a proceeding or matter has been assigned.

(4) “Judge” means United States Bankruptcy Judge.

(d) *Amendments.* Except as otherwise provided, the court shall give notice of proposed amendments to the *LBRs* by posting them in the clerk’s office and on the court’s web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov) or by publishing them in such other publication as the court deems appropriate. The court shall allow at least thirty (30) days from the date of the notice for public comment. When the court determines that there is an immediate need for an amendment, it may proceed without providing public notice or public comment, provided the court promptly thereafter gives public notice and an opportunity for public comment.

(e) *Sanctions.* Except as otherwise provided by law, the court may dismiss an action, enter a default or impose other sanctions it deems appropriate, for any violation of, or failure to comply with, these *LBRs*. The court may excuse the failure to comply with any local bankruptcy rule whenever justice so requires.

## **LBR 9029-2 Local Rules — General Orders and Forms**

The court may adopt administrative orders and forms for the conduct and disposition of proceedings before it and may from time to time alter and amend the same, provided that such administrative orders and forms shall not be inconsistent with the provisions of the Bankruptcy Code, the Bankruptcy Rules or these *LBRs*. Administrative orders shall be numbered according to the uniform numbering system prescribed by the Judicial Conference for local rules and cited as *AO*. Local bankruptcy forms shall be numbered to correlate with the *LBRs* and *AOs* and shall be cited as *LBF*. Copies of such *AOs* and *LBFs* shall be available on the court’s web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov) or by request from the clerk’s office.

## **LBR 9037 Redaction of Personal Identifiers**

Superseded by Administrative Order 9037-1 effective December 4, 2019

*Cross Reference*

[AO 9037-1](#) *Redaction of Personal Identifiers*

## **LBR 9070-1 Exhibits**

Whenever exhibits are entered in a proceeding, they do not become a permanent part of the files and records of the court. Upon the conclusion of any proceeding in which exhibits have been entered and the expiration of the applicable limit on appeals, the offering party or parties shall have 180 days within which to request the return and make arrangements for recovering said exhibits. Whenever a party fails to make such request and arrangements for recovery on a timely basis, the clerk is hereby empowered to, and shall dispose of, said exhibits without further order of the court.

*Cross-Reference:*

[LBR 5072-1](#) (*Courtroom Decorum*)

## **LBR 9071-1 Stipulations; Affidavits of Noncompliance**

- (a) *Conditional Terms.* A stipulation, judgment or order filed and entered by the court containing conditional terms, including automatic dismissal, conversion or relief from stay, is not itself self-executing. The moving party must submit an affidavit by a person with personal knowledge stating that the conditions have not been met along with a proposed order, which shall set forth with specificity the relief to be entered by the court. Said relief may be granted by the court seven (7) days after the filing and serving of a copy of same to all opposing parties.
- (b) *Enforceability.* No understanding or arrangement between parties or attorneys affecting the course or conduct of trial shall be enforceable for any purpose unless the same is in writing or made a part of the record by oral representation. No stipulation shall have the effect of relieving the parties from a prior order of the court, including a scheduling order, unless such stipulation is approved by the court in writing.
- (c) *Time Limited.* Absent exceptional circumstances, the court will not approve a stipulation that, in its judgment, affords a creditor the ability to obtain relief from the automatic stay, by affidavit and without a hearing, for the remainder of the case.

*Cross-References:*

[LBR 7016-4](#) (*Altering Deadlines*)

[LBR 9019-1](#) (*Settlements and Agreed Orders*)

[LBR 9072-1](#) (*Orders — Proposed*)

[LBF 5005-4](#) (*Declaration Regarding Electronic Filing*)

## **LBR 9072-1 Orders — Proposed**

- (a) All moving pleadings, with the exception of motions for relief, shall be accompanied by a proposed order that sets forth with specificity the relief to be entered by the court. The proposed order shall be entitled “Order,” not “Proposed Order,” and shall be substantially in the form of *LBF 9072-1*.
- (b) *Generally.* If counsel is directed to submit a proposed order or judgment following a hearing or trial, the proposed order or judgment must be submitted within seven (7) days following the hearing or trial, or as the court otherwise directs. Failure to submit the proposed order or judgment within the time required

may result in denial of the moving pleading or complaint without prejudice.

*Cross-References:*

[LBR 3017-1](#) (*Disclosure Statement — Approval*)

[LBR 3020-1](#) (*Chapter 11 — Confirmation*)

[LBR 3022-1](#) (*Final Report/Decree (Chapter 11)*)

[LBR 4001-2](#) (*Cash Collateral*)

[LBR 9071-1](#) (*Stipulations; Affidavits of Noncompliance*)

[LBF 9072-1](#) (*Order (Proposed)*)

## **LBR 9073-1 Hearings**

- (a) *Scheduling Hearings.* The scheduling of all motion hearings is controlled by the courtroom deputy of the judge assigned to the case in chief or adversary proceeding. Except as provided in *LBRs 4001-1* and *4003-2* of these rules, counsel are required, prior to the submission of pleadings or moving papers, to contact the courtroom deputy to reserve a time certain for any required hearing. The motion must be accompanied by a notice of hearing, certificate of service and proposed order. Pleadings not in compliance may be denied without prejudice to a new filing in compliance with this rule. (Exception: Motions for relief and motions to avoid lien are governed by *LBRs 4001-1* and *4003-2*, respectively.)
- (b) *Expedited Hearings.* In any instance in which exigent circumstances demand an expedited hearing, counsel shall contact the courtroom deputy prior to filing a motion to expedite a hearing. The motion to expedite shall be a separate pleading, which shall state in clear terms why the hearing needs to be expedited and how soon the parties want the hearing. A separate proposed order shall accompany the motion, which shall include a blank line for insertion by the court of the date and time of the hearing.

*Cross-References:*

[LBR 4001-1](#) (*Automatic Stay — Relief From*)

[LBR 4003-2](#) (*Lien Avoidance*)

[LBR 7007-1](#) (*Motion Practice In Adversary Proceedings*)

[LBR 7101](#) (*Motion Procedure*)

## **LBR 9074-2 Telephonic Appearances and Hearings**

- (a) *Telephonic Appearances.* Where telephonic appearances are permitted pursuant to *AO 9074-2*, parties shall follow the procedures as specified therein. All other telephonic appearances in matters other than those permitted by *AO 9074-2* may be considered by the court only upon timely request to the courtroom deputy of the judge assigned to the case in chief or adversary proceeding.
- (b) *Video Conference Hearings.* Any request for a video conference hearing shall be timely made to the courtroom deputy of the judge assigned to the case in chief or adversary proceeding.
- (c) *Telephone Numbers.* The telephone numbers for the court's courtroom deputies may be obtained on the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov).

*Cross-Reference:*

[AO 9074-2](#) (*Telephonic Appearances*)

**INTERIM BANKRUPTCY RULES of the United States Bankruptcy Court for the  
District of New Hampshire**

**IBR 1007-1<sup>1</sup> Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion**

\* \* \* \* \*

*(b) Schedules, Statement, and Other Documents Required*

\* \* \* \* \*

- (4) Unless either: (A) § 707(b)(2)(D)(i) applies, or (B) § 707(b)(2)(D)(ii) applies and the exclusion from means testing granted therein extends beyond the period specified by Rule 1017(e), an individual debtor in a chapter 7 case shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, the information, including calculations, required by § 707(b), prepared as prescribed by the appropriate Official Form.

- (c) *Time Limits.* In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within fourteen (14) days thereafter, except as otherwise provided in subdivisions (d), (e), (f), (h), and (n) of this rule. In an involuntary case, the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within fourteen (14) days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within fourteen (14) days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within sixty (60) days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, 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), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States Trustee, any committee elected under § 705 or appointed under § 1102 of the Code,

---

<sup>1</sup> Interim Rule 1007-1 has been adopted by the bankruptcy courts to implement the National Guard and Reservists Debt Relief Act of 2008, Public Law No. 110-438, as amended by Public Law No. 114-107. The amended Act, which provides a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces, applies to bankruptcy cases commenced in the 11-year period beginning December 19, 2008.



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.

\* \* \* \* \*

*(n) Time Limits For, and Notice To, Debtors Temporarily Excluded from Means Testing.*

- (1)* An individual debtor who is temporarily excluded from means testing pursuant to § 707(b)(2)(D)(ii) of the Code shall file any statement and calculations required by subdivision *(b)(4)* no later than fourteen (14) days after the expiration of the temporary exclusion if the expiration occurs within the time specified by Rule 1017(e) for filing a motion pursuant to § 707(b)(2).
- (2)* If the temporary exclusion from means testing under § 707(b)(2)(D)(ii) terminates due to the circumstances specified in subdivision *(n)(1)*, and if the debtor has not previously filed a statement and calculations required by subdivision *(b)(4)*, the clerk shall promptly notify the debtor that the required statement and calculations must be filed within the time specified in subdivision *(n)(1)*.

**IBR 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 twenty-one (21) 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 seven (7) days before the scheduled communication.

**ADMINISTRATIVE ORDERS of the United States Bankruptcy Court for the District  
of New Hampshire**

### **AO 1006-1 Fees — Installment Payments**

A debtor seeking approval for payment of the bankruptcy filing fee in installments shall pay no less than one-fourth (1/4) of the total fee required within fourteen (14) days of the filing of the petition. Unless otherwise ordered by the court, the balance of the total fee shall be paid in no more than three (3) additional installments payable every thirty (30) days thereafter until paid in full.

*Cross-References:*

[LBR 5080-1](#) (*Fees — General*)

[LBR 5081-1](#) (*Fees — Form of Payment*)

### **AO 1017-1 Dismissal of Chapter 13 Case Pre-Confirmation; Payment of Administrative Expenses**

Whenever an order or notice issues dismissing a chapter 13 case prior to confirmation of the plan, the court shall retain jurisdiction over any undistributed funds held by the trustee for the later of fourteen (14) days or until the date of any then-scheduled hearing for payment of administrative expenses of the estate including the payment of debtor's attorney fees.

### **AO 2002-7 Implementation of Notice of Preferred Addresses Pursuant to 11 U.S.C. § 342(e) and (f) and National Creditor Registration Service**

An entity, as that term is defined under 11 U.S.C. § 101(15), and a notice provider, i.e., Bankruptcy Noticing Center, may agree that when the notice provider is directed by the court to provide notice to the entity, the notice provider shall do so in the manner agreed to and at the address or addresses provided to the notice provider by the entity. Such address is conclusively presumed to be a proper address for the notice. However, the notice provider's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.

The filing of a notice of preferred address pursuant to 11 U.S.C. § 342(f) by an entity directly with the notice provider shall constitute the filing of such a notice with the court.

The entity must register its preferred address with the National Creditor Registration Service. Forms and registration information are available on the National Creditor Registration Service's web site at <https://ncrs.uscourts.gov>.

## **AO 2016-1 Fee and Expense Guidelines**

### *(a) Fees in Chapter 13 Cases.*

- (1) Unless the court orders otherwise, debtor's counsel does not need to file a fee application, and the disclosure set forth in the Bankruptcy Rule 2016 statement will be sufficient for the court to allow debtor's counsel's fees if the total fee does not exceed \$4,500.
- (2) If the prepetition retainer is \$4,500 or less, the chapter 13 plan may provide that the difference between the prepetition retainer and \$4,500 be paid during the first twelve (12) months of the chapter 13 plan as an administrative expense.

### *(b) Expenses.* Applications for reimbursement for actual, necessary expenses under 11 U.S.C. § 330(a)(1)(B) and LBR 2016-1 shall be considered by the court under the following guidelines. In lieu of establishing the actual cost of certain expense items, a professional person may request the rates of reimbursement set forth below:

- (1) In-house photocopying and incoming facsimiles at the rate of ten cents (\$0.10) per page. Outside photocopying based on actual costs.
- (2) Outgoing facsimiles and long-distance telephone charges based on actual telephone toll charges.
- (3) Computer-accessed legal research based upon actual costs.
- (4) Reimbursement for travel based upon actual costs unless reimbursement is sought for mileage at the rate set by the Secretary of the Treasury pursuant to the Internal Revenue Code.
- (5) Absent extraordinary circumstances, the court will not approve any reimbursement for meals, word processing, document production, administrative charges or overtime charges.
- (6) Unless approved prospectively pursuant to *LBR 2016-1(a)(1)*, the court will not approve reimbursement for expenses that are based on a percentage of fees for services.

#### *Cross-References:*

[LBR 2014-2](#) (*Chapter 13 — Representation by Attorneys*)

[LBR 2016-1](#) (*Compensation of Professionals*)

[LBF 2016-1A](#) (*Annex 1 — Request for Final Fee and Expense Award*)

[LBF 2016-1B](#) (*Annex 2 — Request for Interim Fee and Expense Allowance*)

[LBF 2016-1C](#) (*Supplement to Bankruptcy Rule 2016(b) Statement*)

## **AO 3012-1 Valuation of Personal Property and Non-Residential Real Property Collateral—Motions to Determine Secured Status and Limit Secured Claims**

- (a) Motions.* All pleadings requesting that the court determine under 11 U.S.C. § 506(a) the amount of a claim secured by a lien on the debtor's personal property or non-residential real property and bifurcate the secured claim into secured and unsecured portions as permitted by 11 U.S.C. § 1322(b)(2) or 11 U.S.C. § 1123(b)(5) shall be filed as a motion, and not as an objection to claim. The motion shall be titled "Motion to Determine Secured Status and Limit Secured Claim." The motion shall contain a

specific allegation stating the basis for the value of the personal property or non-residential real property asserted in the motion, and shall have attached to it a copy of the relevant document(s) supporting that value. Before filing the motion, the movant shall ensure that the claim being modified is listed on Schedule D as filed with the petition or as subsequently amended.

- (b) *Exclusions.* Motions to determine secured status and limited secured claims may address only valuation and the extent to which a claim is secured. Such motions shall not request approval of plan payment terms, e.g., interest rate and amount of monthly payments, nor shall such motions request the modification of any other rights of the holder of the secured claim, e.g., escrow for real estate taxes or insurance. Those modification requests shall be made in the plan.
- (c) *Service.* The movant shall serve the motion in accordance with Bankruptcy Rule 7004, made applicable by Bankruptcy Rule 9014(b), particularly Bankruptcy Rule 7004(h), which requires service on an insured depository institution be made by certified mail addressed to an officer of the institution.
- (d) *Filing Motion in CM/ECF.* Such motions shall be filed in CM/ECF under the Avoid Lien event under Motions/Applications and shall follow the prompts related to motions filed under 11 U.S.C. § 506(a) and not those for motions filed under 11 U.S.C. § 522(f).
- (e) *Contingent Hearings.* Such motions shall be scheduled for hearing by contacting the courtroom deputy of the judge assigned to the case in chief pursuant to the requirements of *LBR 7101(b)* and not by using the hearing date for a motion to avoid lien under 11 U.S.C. § 522(f) posted on the court's web site. Hearings on motions to determine secured status and limit secured claims shall be noticed as contingent hearings using *LBF 3012-1D*, and the court may enter an order granting such motions without a hearing if:
  - (1) a motion to determine secured status and limit secured claim is filed that meets all of the requirements of the Bankruptcy Code and complies with all provisions of the *LBRs*, and
  - (2) no objection to the motion to determine secured status and limit secured claim has been filed.
- (f) *Proposed Orders.* Such motions shall be accompanied by a proposed order in the form of *LBF 3012-1C*.

*Cross-References:*

[\*LBR 3012-1\*](#) (*Valuation of Collateral – Motions to Determine Secured Status and Void Wholly Unsecured Liens*)

[\*LBF 3012-1C\*](#) (*Order Granting Motion to Determine Secured Status and Limited Secured Claim*)

[\*LBF 3012-1D\*](#) (*Notice of Contingent Hearing on Motion to Determine Secured Status and Limit Secured Claim*)

[\*LBF 3015-1A\*](#) (*Chapter 13 Plan*)

## **AO 3022-2 Chapter 11 – Motion to Administratively Close Individual Chapter 11 Case**

- (a) *Motion.* In cases involving an individual chapter 11 debtor, such individual debtor may file an *ex parte* motion requesting that the court administratively close the chapter 11 case after the court has entered an order confirming the chapter 11 plan. Such motion shall contain the following provisions:
  - (1) A statement that the confirmed plan has been substantially consummated in accordance with 11 U.S.C. § 1101(2), and the estate has been fully administered except for the completion of all plan

payments.

- (2) A statement that all monthly reports and payments due to the United States Trustee are current.
- (3) A statement that all litigation has concluded except to the extent that the court has retained jurisdiction over certain pending matters (e.g., an outstanding appeal).
- (4) A statement that there are no outstanding issues that would preclude the administrative closure of the case.

(b) *Proposed Order.* The proposed order on a motion to administratively close an individual chapter 11 case shall contain the following provisions:

- (1) A statement that the order administratively closing the debtor's case does not operate to close the case for purposes of 28 U.S.C. § 1930 Appendix (11), 11 U.S.C. § 362(c)(2)(A), or Bankruptcy Rule 4006.
- (2) A statement that the provisions of the confirmed plan and confirmation order shall continue to bind the debtor, the creditors, and other parties in interest as set forth in 11 U.S.C. § 1141(a).
- (3) A statement that upon completion of all plan payments the debtor may move to reopen the case under 11 U.S.C. § 350 for the purpose of obtaining a discharge under 11 U.S.C. § 1141(d)(5) and entry of a final decree when all plan payments have been completed.

#### **AO 3070-7 Chapter 13 Pre-Confirmation Adequate Protection Payments**

- (a) Payments of personal property leases governed by 11 U.S.C. § 1326(a)(1)(B) shall only be made directly by the debtor to the lessor if the debtor's plan so provides or if no plan provision addresses payment of the debtor's lease obligation. If the plan provides for payment of the lease obligation by the trustee, the debtor shall make the payment as part of the total payment to the trustee, and the trustee shall pay the lessor, both before and after confirmation.
- (b) Pre-confirmation adequate protection payments governed by 11 U.S.C. § 1326(a)(1)(C) shall only be made directly by the debtor to the secured creditor if the debtor's plan so provides or if no plan provision addresses payment of the secured claim. If the plan provides for payment of the secured claim by the trustee, the debtor shall make the payment as part of the total payment to the trustee, and the trustee shall pay the amount provided by the plan to the secured creditor, both before and after confirmation.

#### **AO 4002-7 Procedures for Filing and Obtaining Tax Information Under 11 U.S.C. § 521**

The procedures described below should be followed for safeguarding the confidentiality of tax information required to be provided under 11 U.S.C. § 521, whether filed with the court or otherwise provided by the debtor pursuant to 11 U.S.C. § 521. The term "tax information" includes tax returns, transcripts of returns, amendments to returns and any other document containing tax information provided by the debtor.

- (a) *Filing of Tax Information.* In order for tax information to be electronically entered into the court's CM/ECF system, the "tax information" event must be selected from the CM/ECF event list. The specific

filing events are listed in Public Notice 05-08, which can be found under the Court Information tab on the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov).

- (b) *No Electronic Public Access to Tax Information.* Use of the “tax information” event in CM/ECF limits access to the filed tax information to those users assigned “court” log-ins (i.e., judicial officers and court employees). All other users (including PACER users) will be limited to viewing only the docket event indicating that tax information has been filed. These other users will not be able to open and view the tax information. Access to the tax information shall be available only upon request to the court in accordance with the provisions of paragraph (d) below.
- (c) *Redaction of Personal Information.* All tax information provided in accordance with 11 U.S.C. § 521 is subject to the Judicial Conference of the United States Policy on Privacy and Public Access to Electronic Case Files (“JCUS policy”) available at [www.privacy.uscourts.gov/Policy.htm](http://www.privacy.uscourts.gov/Policy.htm). In accordance with the JCUS policy, the debtor should take the following steps to redact personal identifiers in any tax information filed with the court or provided to the trustee or a creditor, in either electronic or paper form:
- (1) *Social Security numbers.* If an individual’s Social Security number is included, only the last four digits of that number should appear.
  - (2) *Names of minor children.* If minor children are identified by name, only the children’s initials should appear.
  - (3) *Dates of birth.* If an individual’s date of birth is included, only the year should appear.
  - (4) *Financial account numbers.* If financial account numbers are provided, only the last four digits of these numbers should appear.

Court employees are not responsible for redacting any of the personal identifying information. The responsibility for redacting personal identifiers rests solely with the debtor.

- (d) *Procedure for Requesting and Obtaining Access to Tax Information.* To gain access to a debtor’s tax information under 11 U.S.C. § 521(f), the United States Trustee, trustee or party in interest, including a creditor, must follow the procedures set forth below:
- (1) The United States Trustee, trustee or party in interest, including a creditor, must file with the court and serve on the debtor and debtor’s counsel, if any, a written request that the debtor file copies of tax returns with the court pursuant to 11 U.S.C. § 521(f).
  - (2) In order to obtain access to debtor’s tax information that is filed with the bankruptcy court, the movant must file a motion with the court, which should include:
    - (A) A description of the movant’s status in the case, to allow the court to ascertain whether the movant may properly be given access to the requested tax information.
    - (B) A description of the specific tax information sought.
    - (C) A statement indicating that the information cannot be obtained by the movant from any other sources.

(D) A statement showing a demonstrated need for the tax information.

(e) *Access to Tax Information as Ordered by the Court.* Orders granting a motion for access to tax information will include language advising the movant that the tax information obtained is confidential and should condition dissemination of the tax information as appropriate under the circumstances of the particular case. At the discretion of the court, the order may state that sanctions may be imposed for improper use, disclosure or dissemination of the tax information. Upon the granting of a motion for access to tax information, the movant shall make arrangements to view the tax information at the clerk's office, unless otherwise ordered by the court. The transmission of the tax information to the movant, by whatever means the court deems appropriate in a particular case, shall be recorded as a docket event in CM/ECF so that the docket will reflect that the court has taken the action necessary to effect the provisions of its order granting access.

#### **AO 4008-1 Reaffirmation**

(a) *Form.* All reaffirmation agreements shall be filed using Director's Form 2400 issued by the Director of the Administrative Office of the United States Courts and be accompanied by Official Bankruptcy Form 427, Reaffirmation Agreement Cover Sheet. The forms are available at [www.uscourts.gov](http://www.uscourts.gov) or on the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov). If a reaffirmation agreement filed with the court is not substantially in the form of Director's Form 2400 and accompanied by Official Bankruptcy Form 427, it will not be effective and is subject to disapproval by the court.

(b) *Agreements Not Effective.* Reaffirmation agreements not complying with the provisions of this subparagraph are not effective and are subject to disapproval by the court without notice or a hearing:

- (1) A reaffirmation agreement must be executed prior to the date of the debtor's discharge.
- (2) A reaffirmation agreement must be accompanied by the best available evidence of the claim and, as appropriate, copies of the underlying contractual documents.

(c) *Hearing Not Required.* If the presumption of undue hardship has not arisen under 11 U.S.C. § 524(m), no hearing to review and approve a reaffirmation agreement will be scheduled by the court if either of the following applies:

- (1) The debtor was represented by an attorney during the course of negotiating the agreement.
- (2) The debt is a consumer debt secured by a mortgage or other lien on real property.

(d) *Hearing Required.* A hearing to review and approve a reaffirmation agreement may be scheduled by the court:

- (1) If the debtor was not represented by an attorney during the course of negotiating the agreement, the debt is not a consumer debt secured by a mortgage or other lien on real property and undue hardship cannot be determined from the reaffirmation agreement.
- (2) Whether or not the debtor was represented by an attorney during the course of negotiating the agreement, if the presumption of an undue hardship has arisen under 11 U.S.C. § 524(m) and the court is unable to find that the presumption is rebutted based upon the information submitted by the debtor.



(e) *Appearance by Debtor's Attorney at Hearing.* Unless the court orders otherwise, any attorney who represented the debtor in connection with the preparation or filing of the bankruptcy petition, statement of financial affairs or schedules, shall personally appear at any hearing conducted under subparagraph (d) above.

#### **AO 4008-2 Lease Assumption in Chapter 7 Cases**

In a chapter 7 case, pursuant to 11 U.S.C. § 365(p)(2), an individual debtor may assume a lease of personal property by notifying a creditor in writing that the debtor desires to assume the lease. Upon being so notified, the creditor may, at its option, notify the debtor that it is willing to have the lease assumed by the debtor and may condition such assumption on cure of any outstanding default on terms set by the contract. Parties to a lease of personal property should not enter into a reaffirmation agreement under 11 U.S.C. § 524(c).

*Cross-Reference:*

[AO 4008-1](#) (*Reaffirmation*)

#### **AO 5001-2 Location and Mailing Address of Clerk's Office**

The clerk's office is located on the 2<sup>nd</sup> floor of the Warren B. Rudman U.S. Courthouse at 55 Pleasant Street, Concord, New Hampshire. The mailing address is:

Clerk, U. S. Bankruptcy Court  
District of New Hampshire  
Warren B. Rudman U.S. Courthouse  
55 Pleasant Street, Room 200  
Concord, NH 03301

#### **AO 5005-4 Electronic Filing**

##### *(a) Registration and Passwords*

- (1) *Attorneys and Trustees.* Attorneys admitted to the bar of this court (including those admitted *pro hac vice*), United States trustees and their assistants, trustees and others as the court deems appropriate, may register as Filing Users of the court's CM/ECF system upon: (A) completion of the court's training program, or (B) certification that the proposed Filing User has been trained in another court and is qualified to file pleadings in a federal court. Registration will be in a form prescribed by the clerk and will require the Filing User's name, address, telephone number, email address and, in the case of an attorney, a declaration that the attorney either is admitted to the bar of this court or has been admitted to the bar of this court *pro hac vice* at the time that the application is submitted. Attorneys and trustees may request Filing Agent access for employees who file on their behalf. The attorney or trustee is responsible for all documents filed by the Filing Agent.
- (2) *Limited Use Log-ins and Passwords.* Attorney and creditor representatives may register as Filing Users of the court's CM/ECF system upon: (A) completion of the court's training program, or (B) certification that the proposed Filing User has been trained in another federal court and is qualified to file approved limited use documents. Registration will be in a form prescribed by the clerk and will require the firm name, Filing User's name, address, telephone number and email

address.

- (3) *Securing Log-in and Password.* Once registration is completed, the Filing User will receive notification of the user log-in and password. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User. Filing Users shall protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised. Filing Users may be subject to sanctions for failure to comply with this provision.

*(b) Consequences of Electronic Filing*

- (1) *Entry of Documents.* Electronic transmission of a document to the CM/ECF system consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Bankruptcy Rules and the *LBRs* of this court and constitutes entry of the document on the docket kept by the clerk under Bankruptcy Rule 5003.
- (2) *Entry of Court Orders.* All orders, decrees, judgments and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Bankruptcy Rules 5003 and 9021. All orders will be filed electronically by the court or court personnel. Any order filed electronically without the handwritten, wet signature of a judge has the same force and effect as if the judge had affixed the judge's handwritten, wet signature to a paper copy of the order and it had been entered on the docket in a conventional manner.
- (3) *Official Record.* When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently submitted electronically, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

*(c) Service and Notice*

- (1) *Waiver of Service.* Registration as a Filing User constitutes: (A) waiver of the right to receive notice by first class or certified mail and consent to receive notice electronically; and (B) waiver of the right to service by personal service, first class or certified mail, and consent to electronic service, except with regard to service of a summons and complaint under Bankruptcy Rule 7004. Waiver of service and notice by first class or certified mail applies to notice of the entry of an order or judgment under Bankruptcy Rule 9022.
- (2) *Service of Documents by Electronic Means.* Electronic transmission by the court of the Notice of Electronic Filing generated by the CM/ECF system will constitute service or notice of the filed document. Parties not deemed to have consented to electronic notice or service are entitled to receive a paper copy of any electronically filed pleading or other document, and service or notice must be made according to the Bankruptcy Rules and the *LBRs*.
- (3) *Notice of Court Orders and Judgments.* Immediately upon the entry of an order or judgment, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Bankruptcy Rule 9022.

*(d) Signatures and Declarations Regarding Electronic Filing*

- (1) *Log-in and Password Constitute Signature.* The user log-in and password required to file documents on the CM/ECF system serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Bankruptcy Rule 9011, the Bankruptcy Rules, the *LBRs* of this court and any other purpose for which a signature is required in connection with proceedings before the court. Electronically filed documents must include a signature block that sets forth the name, address, telephone number and an attorney's BNH number, if applicable. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "/s/" and typed in the space where a handwritten, wet signature would otherwise appear.
- (2) *Documents Requiring Signature of More Than One Party.* Except for documents covered by paragraph (d)(3) of this order, documents requiring signatures of more than one party must be electronically filed either by: (A) filing a scanned document containing all necessary signatures, (B) representing the consent of the other parties on the document, or (C) in any other manner approved by the court.
- (3) *Documents Containing Signatures Under Oath Require Submission of Declaration Regarding Electronic Filing.* If a document that is electronically filed contains a signature under oath, other than that of the Filing User, a Declaration Regarding Electronic Filing must be submitted to the court within seven (7) days. The Declaration Regarding Electronic Filing must be signed under oath, and must contain the handwritten, wet ink signatures of the petitioner/declarant and the attorney for the petitioner/declarant. The Declaration Regarding Electronic Filing must be in the form of *LBF 5005-4* and must have attached to it a copy of the Notice of Electronic Filing for that document, which includes the electronic document stamp. The clerk is hereby empowered to, and shall dispose of, said declarations three (3) years after the case is closed without further order of the court. Examples of documents that require the submission of a Declaration Regarding Electronic Filing include petitions, schedules/statements, amendments to schedules/statements, affidavits, verified complaints and plans if signed under oath.

*(e) Miscellaneous.*

- (1) *Filing Deadlines.* Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.
- (2) *Attachments and Exhibits.* Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless the court permits conventional filing. A Filing User may submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Filing Users must promptly provide excerpted documents in full if a responding party makes such a request. Responding parties may timely file additional excerpts or the complete document, if they believe they are directly germane.
- (3) *Proposed Orders.* A Filing User filing a document electronically that requires court approval

must also file, at that time, a separate proposed order as an attachment to the document in the CM/ECF system. If a proposed order is being submitted by a Filing User after a document requiring court approval has already been electronically filed (e.g., at the request of a judge after a hearing on the document), the proposed order shall be filed separately in the CM/ECF system unless otherwise ordered by the court. The proposed order shall be entitled “Order,” not “Proposed Order,” and shall be substantially in the form of *LBF 9072-1*.

- (4) *Technical Failures.* A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court pursuant to 11 U.S.C. § 105 and Bankruptcy Rule 9006(b)(1), subject to the limitations of Bankruptcy Rule 9006(b)(2) and (3)

*Cross-References:*

[LBR 5003-4](#) (*Court Documents*)

[LBR 5005-4](#) (*Electronic Filing*)

[LBF 5005-4](#) (*Declaration Regarding Electronic Filing*)

[LBF 9072-1](#) (*Order (Proposed)*)

## **AO 5005-6 Highly Sensitive Documents**

In response to recent disclosures of wide-spread breaches of both private sector and government computer systems, federal courts are immediately adding new security procedures to protect highly sensitive documents filed with the courts. Highly sensitive documents include, but are not limited to, documents relating to matters of national security, foreign sovereign interests, or cybersecurity; the extent of domestic or international interests; the involvement of public officials; intellectual property or trade secrets; or the reputational interests of the United States. As of the effective date of this Administrative Order, highly sensitive documents do not include documents to which public access is routinely restricted to protect privacy and prevent identity theft, such as bank records, social security records, health records, unclaimed fund applications, and income tax returns—all of which will continue to be governed by the procedures for redaction and restricting access set forth in *AO 9037-1*.

Parties who seek to file highly sensitive documents with the Court shall follow the procedures set forth in *LBR 5005-5* for filing documents under seal. Highly sensitive documents should not be filed in CM/ECF.

*Cross-References:*

[LBR 5005-5](#) (*Sealed Documents*)

[AO 9037-1](#) (*Redaction of Personal Identifiers*)

## **AO 5073-1 Use of Electronic Devices in Courtrooms**

(a) *Attorneys.* Unless otherwise prohibited by a judge or the clerk, members of the bar and their agents may possess and use cell phones, computers, pagers, personal digital assistants, and similar electronic devices in the courtrooms. Such devices must be set on silence mode, and no telephone calls shall be made or received, while in any courtroom or judge’s chambers without specific advance authorization by the presiding judge.

(b) *Pro se.* *Pro se* litigants and others may be extended similar privileges upon application to the clerk and

showing of good cause or particular need for an exception.

- (c) *Recording Prohibited.* Consistent with the provisions of LR 83.8 and *LBR 5073-1*, in no event shall any device be employed by counsel or anyone else in any manner designed to photograph, record (audio or video), broadcast, transmit, or televise any proceeding, scene, discussion, or event.
- (d) *Sanctions.* Use of an electronic device in violation of any of the above provisions may subject the electronic device holder to sanctions.

#### **AO 5073-2 Courtroom Technology**

Parties who intend to use audio and/or visual equipment or technology in the courtroom, including but not limited to videoconferencing and evidence presentation systems, shall be prepared to operate such systems without the assistance of the clerk's office staff. At a minimum, parties using courtroom audio and/or visual equipment shall: (a) review materials on the courtroom technology page of the court's website; (b) make arrangements with the clerk's office no later than five (5) days prior to the hearing/trial if they would like to train on or otherwise become familiar with the court's systems; (c) supply the necessary cables to connect personal laptops to the court's evidence presentation system; and (d) perform a virus check on any media they intend to access on court provided computers.

#### **AO 5075-7 Debtors Asserting an Exception to the Limitation of the Automatic Stay Pursuant to 11 U.S.C. § 362(l) and Procedure for Receiving Rent Deposits**

To establish uniformity in the procedures for the deposit of rent by debtors and transmittal of rent to lessors under 11 U.S.C. § 362(l)(1)(B) and 362(l)(5)(D), rent payments shall be paid as follows:

- (a) Any deposit of rent made by or on behalf of a debtor pursuant to 11 U.S.C. § 362(l)(1)(B) must be in the form of a certified check or money order made payable to the order of the lessor and delivered to the clerk upon filing of the petition and the certification made under 11 U.S.C. § 362(l)(1)(A).
- (b) Upon the clerk's receipt of a certified check or money order made payable to the order of the lessor, the clerk is directed to promptly transmit the certified check or money order to the lessor by certified mail, return receipt requested, to the lessor's address listed on the petition.

#### **AO 5080-1 Fees — Request for Refund**

- (a) *Request for Refund.* An attorney or trustee may request a refund of a filing fee paid electronically in a case or proceeding in which payment was made by credit card only.
- (b) *Motion.* Any request for a refund shall be made by motion, accompanied by a proposed order, as soon as practicable after the payment error is discovered. The motion must contain a detailed explanation as to why the payment should be refunded. No supporting memorandum or notice of hearing is necessary if any of the following applies:
  - (1) A fee was paid for filing a duplicate document, bankruptcy petition or adversary proceeding.
  - (2) A fee was paid for filing a document in the wrong case or proceeding.

- (3) The movant is entitled to an exemption from the filing fee paid.
  - (4) The trustee or debtor in possession is eligible for deferral of the filing fee in a case in which no funds from the estate exist for payment of the filing fee but the filing fee was paid electronically.
- (c) Upon verification of the grounds set forth in (b) above, and upon order of the court, the clerk is authorized to effect a refund only if the refund may be processed as a credit to the attorney's or trustee's credit card. In all other instances, the attorney or trustee shall obtain a hearing date in accordance with LBR 9073-1.

*Cross-Reference:*  
[LBR 5080-1](#) (Fees — General)

#### **AO 7008-1 Adversary Proceedings — Pleadings**

A complaint, counterclaim, cross-claim, or third party complaint shall comply with the pleading requirements of Bankruptcy Rule 7008 and, in addition, shall contain a statement that the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court.

#### **AO 7012-1 Adversary Proceedings — Defenses and Objections**

An answer or other responsive pleading shall comply with the requirements of Bankruptcy Rule 7012(b) and, in addition, shall include a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy court.

#### **AO 9012-1 Compliance with the Servicemembers Civil Relief Act**

In order to comply with § 521 of the Servicemembers Civil Relief Act (the “Act”) regarding the entry of default judgments and other applicable parts of the Act, 50 U.S.C. app. §§ 501, et seq., the court requires the following:

- (a) *Default Judgments.* At the time of the filing of a motion for default judgment in an adversary proceeding pursuant to Bankruptcy Rule 7055, the plaintiff must file an affidavit with the court which states: (1) whether or not the defendant is in the military service, and indicating the necessary facts to support said affidavit; or (2) if the plaintiff is unable to determine whether or not the defendant is in the military service, a statement that the plaintiff is unable to so determine. See § 521(b)(1) of the Act. If a plaintiff moving for a default judgment does not submit the required affidavit, the motion will be denied. If the court is unable to ascertain the defendant's military status from the presented affidavit, it may require the plaintiff to file a bond before entering any default judgment. Section 521(b)(4) of the Act states that the affidavit requirement “may be satisfied by a statement, declaration, verification or certificate, in writing, subscribed and certified or declared to be true under penalty of perjury.”
- (b) *Motions for Relief from the Automatic Stay.* At the time of the filing of a motion for relief from stay under Bankruptcy Rule 4001, the movant must file an affidavit with the court which states: (1) whether or not the respondent is in the military service, and indicating the necessary facts to support said affidavit; or (2) if the movant is unable to determine whether or not the respondent is in the military service, a statement that the movant is unable to so determine. See § 521(b)(1) of the Act. The court

will not enter any orders lifting the stay if the movant does not supply the required affidavit. If the court is unable to ascertain the respondent's military status from the presented affidavit, it may require the movant to file a bond before entering any order lifting the stay.

- (c) *Motions and Contested Matters.* At the time of the filing of any motion requesting a remedy which may be granted by the court for a party's failure to respond, movant must also certify whether the respondent is a servicemember, as required by § 521(b)(1) of the Act.
- (d) *Debtor's Information.* In order to assist the court in its determination of a debtor's status under the Act, a debtor should inform the court if he or she is a servicemember subject to the provisions of the Act at the time of the filing of the bankruptcy petition by submitting a separate writing in the form of Director's Form 2020 issued by the Director of the Administrative Office of the United States Courts, a copy of which is available at [www.uscourts.gov](http://www.uscourts.gov) or on the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov). If, at any time during the pendency of the bankruptcy proceedings, a debtor becomes entitled to the protections of the Act, he or she should inform the court of the change in military status within fourteen (14) days of the change in status. Failure by the debtor to inform the court of his or her military status does not in any way constitute a waiver of the debtor's protections under the Act and does not alter the responsibility of a party to investigate the debtor's servicemember status before filing any of the papers referred to in subparagraphs (a) through (c) of this administrative order.
- (e) *Verification.* Information on verification of the military status of an individual is available from the clerk's office or on the court's web site at [www.nhb.uscourts.gov](http://www.nhb.uscourts.gov).

#### **AO 9027-1 Removal**

- (a) *Notice of Removal.* A notice of removal shall comply with the requirements of Bankruptcy Rule 9027 and, in addition, shall contain a statement that upon removal of the claim or cause of action the party filing the notice does or does not consent to the entry of final orders or judgment by the bankruptcy court.
- (b) *Procedure After Removal.* After removal of a claim or cause of action in a case that has been referred to the bankruptcy court, any party who has filed a pleading in connection with the removed claim or cause of action, other than the party filing the notice of removal, shall comply with the requirements of Bankruptcy Rule 9027(e)(3) and, in addition, shall file a statement that the party does or does not consent to entry of final orders or judgment by the bankruptcy court. A statement required by this paragraph shall be signed pursuant to Bankruptcy Rule 9011 and shall be filed not later than fourteen (14) days after the filing of the notice of removal. Any party that files a statement pursuant to this paragraph shall mail a copy to every other party to the removed claim or cause of action.

#### **AO 9033-1 Proposed Findings of Fact and Conclusions of Law**

In a proceeding in which the bankruptcy court has issued proposed findings of fact and conclusions of law, the clerk shall serve forthwith copies on all parties by mail or electronic service and note the date of service on the docket.

#### **AO 9037-1 Redaction of Personal Identifiers**

- (a) *Compliance with Bankruptcy Rule 9037.* All documents filed with the court shall comply with

Bankruptcy Rule 9037. The responsibility for redacting personal identifiers rests solely with the filing party.

- (b) *Motion to Redact Personal Identifiers.* Notwithstanding the requirements of Bankruptcy Rule 9037, a party seeking to redact personal identifiers from a document or a proof of claim, already filed with the court, shall file a motion to redact the personal identifiers accompanied by a proposed order in the form of *LBF 9037-1*. The motion shall identify the individual whose personal identifiers have been exposed and shall comply with the provisions of Bankruptcy Rule 9037(h).
- (c) *Filing Motions to Reopen in Closed Cases.* The granting of a motion to redact in a closed case is ministerial in nature and does not impact the administration of the case. For that reason, a party seeking redaction in a closed case does not need to file a motion to reopen the case, and no fee for reopening shall be collected by the clerk.
- (d) *Redaction Fee.* In accordance with the provisions of the Bankruptcy Court Miscellaneous Fee Schedule, the party filing a motion to redact personal identifiers from a document or proof of claim must pay a fee for filing such motion to redact.

*Cross-References:*

[LBR 5005-4](#) (*Electronic Filing*)

[LBF 9037-1](#) (*Order Granting Motion to Redact*)

## **AO 9074-2 Telephonic Appearances**

All parties seeking to participate in hearings by telephonic appearance must utilize the services of CourtCall, an independent conference call company.

Unless otherwise authorized by the court, no telephonic appearance will be allowed unless it is made through CourtCall pursuant to the procedures set forth in paragraph (b) below.

Under no circumstances may any participant record or broadcast the proceedings conducted by the bankruptcy court.

### *(a) Policy Governing Telephonic Appearances*

- (1) Telephonic appearances are allowed in all matters before the court except the following:
  - (A) Trials and evidentiary hearings—all counsel and all witnesses must appear in person.
  - (B) Chapter 11 status conferences—debtor and debtor’s counsel must appear in person, other parties in interest may appear telephonically.
  - (C) Chapter 11 confirmation hearings—debtor, debtor’s counsel and all objecting parties must appear in person.
  - (D) Hearings on reaffirmation agreements—debtor and debtor’s counsel must appear in person.
  - (E) Pretrial conferences—all counsel and *pro se* parties must appear in person unless excused



by the court.

- (F) Any matter designated by the court as one requiring a personal appearance.
- (2) A party may participate by telephonic appearance in more than one case on a list. Any party solely interested in monitoring the court's proceedings may participate by telephonic appearance in "listen only" mode.
- (3) If an individual schedules a telephonic appearance and then fails to respond to the call of a matter on the calendar, the court may pass the matter or may treat the failure to respond as a failure to appear. Individuals making use of the conference call service are cautioned that they do so at their own risk.
- (4) To ensure the quality of the record, the use of car phones, cellular phones, speaker phones or phones in other public places is prohibited. Each time the participant speaks, he must identify himself for the record. The call may not be placed on hold at any time. When the hearing is completed, the participant may disconnect or, if appearing by telephone in a later case on the same list, may stay on the call and wait for the next case to be called.

*(b) Scheduling a Telephonic Appearance*

- (1) Participants must notify CourtCall toll free by telephone (866-582-6878) or by facsimile (866-533-2946).
- (2) Participants must provide CourtCall with the following information:
  - (A) Case name and number.
  - (B) Name of judge.
  - (C) Hearing date and time.
  - (D) Name, address and telephone number of the participant.
  - (E) Name of the party represented by the participant.
  - (F) Matter on which the participant wishes to be heard or whether the participant intends to monitor the proceeding in "listen only" mode.
- (3) Participants will receive fax confirmation and instructions for telephonic appearance from CourtCall. It is the participant's responsibility to dial into the call not later than ten minutes prior to the scheduled hearing.
- (4) Any questions about telephonic appearances should be directed to CourtCall at 866-582-6878.
- (5) Information about CourtCall's policies may be obtained from its web site at [www.courtcall.com](http://www.courtcall.com) or by calling 866-582-6878.

*(c) Fees.* The fee for the telephonic appearance is fixed by CourtCall, depending on the length of time the participant is on the call, regardless of the number of cases the participant appears in during a call or

whether the participant is actually heard by the bankruptcy court or is in “listen only” mode. Each participant will be charged or billed an initial fee at the time of the reservation with CourtCall, with appropriate increments, if any, to be charged or billed based upon the fee rate. Current pricing may be found under the Attorneys tab of the CourtCall web site at [www.courtcall.com](http://www.courtcall.com).

There are no subscription fees, and no special equipment is required to use the service.

*Cross-Reference:*

[LBR 9074-2](#) (*Telephonic Appearances and Hearings*)