

Request for Public Comment

Comment period: August 1 – August 31, 2021

Send comments to:

bankruptcy_comments@lawb.uscourts.gov

Proposed Revisions to

LOCAL BANKRUPTCY RULES

OF THE UNITED STATES BANKRUPTCY COURT

FOR THE WESTERN DISTRICT OF LOUISIANA

LBR 2015-2 Chapter 7 Trustees – Authority to Advance Estate Funds.

In any chapter 7 case where the trustee has not been authorized to conduct the business of the debtor, the trustee may advance from estate funds only the following without further order:

- (a) expenses payable to unrelated third parties, subject to the subsequent court approval for reasonableness after notice and hearing, provided that no single such expense exceeds \$200.00 and the aggregate amount of such expenses does not exceed \$1,000.00;
- (b) adversary filing fees; and
- (c) payment or reimbursement of bond premiums as authorized by the United States Trustee.

LBR 2090-1 Attorneys – Admission to Practice; Discipline; Withdrawal.

District Court Local Civil Rule 83.2 and all subparts of the same are applicable to proceedings in this court. As this court is a unit of the United States District Court for the Western District of Louisiana, admission to practice in that Court is required to appear as an attorney in this court. An attorney who is licensed by the highest court of a state, but who is not admitted to practice in the United States District Court for the Western District of Louisiana, may represent a party in this court *pro hac vice* by permission of the presiding judge. All applications to appear *pro hac vice* must conform to District Court Local Civil Rule 83.2.6. The motion may be filed *ex parte*. Admission to practice is limited to the particular case or adversary proceeding for which it is approved; it is not a general admission to practice before the Bankruptcy Court or the District Court. An attorney admitted *pro hac vice* must comply with all aspects of these Local Bankruptcy Rules. By appearing in any case, an attorney becomes subject to all rules, and general and standing orders, of this court. Discipline of Attorneys is governed by District Court Local Civil Rule 83.2.10. An attorney desiring to withdraw in any case must file a motion to withdraw in accordance with District Court Local Civil Rule 83.2.11.

~~LBR 2091-1 Attorneys—Withdrawals.~~

~~An attorney desiring to withdraw in any case must file a motion to withdraw. This motion must specify the reasons requiring withdrawal and provide the name and address of the succeeding attorney. If the succeeding attorney is not known, the motion must set forth the name, address, and telephone number of the client and either bear the client's signature approving withdrawal or state specifically why, after due diligence, the attorney was unable to obtain the client's signature.~~

~~LBR 3001-1 Proof of Claim Attachment Required for Claims Secured by Security Interest in the Debtor's Principal Residence.~~

~~(a) In General.~~

~~This rule applies in all cases and with regard to claims that are secured by a security interest in the individual debtor's principal residence. For chapter 13 cases, this rule applies in addition to the requirements of Fed. R. Bankr. P. 3002 and 3002.1.~~

~~(b) Mortgage Proof of Claim Attachment.~~

~~The holder of a claim secured by a security interest in the debtor's principal residence shall attach to its proof of claim an exhibit reflecting at least the following details regarding the prepetition claim being asserted:~~

- ~~(1) all prepetition interest amounts due and owing, itemized such that the applicable interest rate is shown, as well as the start and end dates for accrual of interest at such interest rate;~~
- ~~(2) all prepetition fees, expenses, and charges due and owing, itemized to show specific categories (e.g., appraisals, foreclosure expenses, etc.) and the dates incurred;~~
- ~~(3) any escrow amount included in the monthly payment and, if there is an escrow account, a supplemental attachment of an escrow statement prepared as of the petition date; and~~
- ~~(4) a statement reflecting the total amount necessary to cure any default as of the petition date, which must show:~~
 - ~~(i) the number of missed payments;~~
 - ~~(ii) plus the aggregate amount of any fees, expenses, and charges due and owing; and~~
 - ~~(iii) less any funds the creditor has received but not yet applied.~~

~~(c) Form and Content.~~

~~The proof of claim attachment described in this rule shall be prepared as prescribed by the appropriate Official Form.~~

LBR 3001-~~21~~ Proof of Claim – Transferred Claim; Notice Not Required Where Transfer Indicates Agreement by Transferor and Transferee; Transferred Claim Will Not be Filed in Closed Case.

~~LBR 3018-1 Ballots Voting on Plans.~~

~~Unless the court orders otherwise, at least one (1) day prior to the hearing on confirmation, the proponent of a plan or other party who receives the acceptances or rejections shall file a ballot tabulation and certification which identifies the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan. A copy of the certification shall be served on the debtor, case trustee, if any, United States Trustee and any committee appointed or elected in the case. On the basis of the certification, the Presiding Judge may find that the plan has been accepted or rejected.~~

LBR 3015-1 Filing, Objection to Confirmation, Effect of Confirmation, and Modification of a Plan in a Chapter 12 or Chapter 13 Case.

(c) Objections to Confirmation.

- (1) Written objections to chapter 12 or 13 plan confirmation by parties other than the chapter 12 or 13 trustees shall be filed and served on the trustee, the debtor and debtor's counsel at least fourteen (14) days before the scheduled confirmation hearing. ~~Written objections to chapter 11 plan confirmation shall be filed and served on the trustee, the debtor and debtor's counsel at least seven (7) days before the scheduled confirmation hearing.~~ The court may refuse to consider an objection that is not filed and served timely or impose other appropriate sanctions.

LBR 3020-1 Chapter 11 – Confirmation.

- (b) Unless the court orders otherwise, not less than one (1) day prior to the hearing on confirmation, the plan proponent shall file on CM-ECF, the following:
 - (1) A ballot tabulation and certification ~~as required by Local Bankruptcy Rule 3018-1~~ which identifies the amount and number of allowed claims of each class accepting or rejecting the plan and the amount of allowed interests of each class accepting or rejecting the plan.
 - (2) A certification of compliance with the requirements of 11 U.S.C. § 1129(a), ~~or in the alternative, evidence of such compliance at the hearing. If a certification is filed, it which~~ must be in the form of an affidavit or a declaration which complies with the requirements of 28 U.S.C. § 1746; and
 - (3) Any other document necessary for plan confirmation.

LBR 4001-1 Automatic Stay – Procedure for Obtaining Relief from the Automatic Stay.

(g) Parties for Service of Notice of Hearing and Motion.

The moving party must serve a copy of the notice of hearing and a copy of the motion on:

- (1) all parties required by Fed. R. Bankr. P. 4001(a)(1);
- (2) the debtor, and, if the debtor is represented by an attorney, the attorney;
- (3) any applicable codebtor when relief is sought from the codebtor stay;
- (4) any party ~~scheduled~~ listed on Official Form 206D (Schedule D: Creditors Who Have Claims Secured By Property) filed in the case as holding a lien on the property at issue in the motion, when relief is sought from the stay of an act against property;
- (5) the United States Trustee; and
- (6) all parties who filed a request for notices with the Bankruptcy Clerk.

(h) Required Notice and Response Deadline.

The notice of hearing must comply with Local Bankruptcy Rule 9013-1(b)(1)–(3). If the motion relates to property, the notice of hearing shall provide a concise description of the property. The notice shall inform all parties that a hearing will be held on the motion IF AND ONLY IF an answer, objection or opposition to the motion is filed with the Bankruptcy Clerk’s office and mailed to the moving party’s counsel ~~within~~ at least seventeen (17) days of the mailing date shown on the moving party’s certificate of mailing of the motion to lift the stay. This seventeen (17) day period is calculated by using fourteen (14) days from Fed. R. Bankr. P. 4001, plus three (3) days from Fed. R. Bankr. P. 9006(f). The date to answer, object or oppose shall be clearly and succinctly stated in bold type on the notice and shall be referred to as the RESPONSE DEADLINE. The hearing date assigned by the Bankruptcy Clerk shall be no less than seven (7) calendar days after the RESPONSE DEADLINE. In addition to any information required by Local Bankruptcy Rule 9013-1(b)(1)–(3), the notice of hearing must contain a statement in substantially the following form:

A hearing to consider the [title of motion] will be held on [Month] [Day], [Year] at ___ o’clock, __. m. at [identify courthouse address, floor and courtroom number, if applicable], IF AND ONLY IF, an

objection or response is filed on or before the response deadline noted herein. The motion seeks *[describe with such particularity as appropriate to fairly apprise others of the relief sought, including if applicable, a concise description of the property at issue]*. No hearing will be conducted hereon unless a written response is filed with the Clerk of the United States Bankruptcy Court at *[address of Clerk's office]* before the close of business on *[Month] [Day], [Year]* (the “Response Deadline”) which is a date at least seven (7) days before the hearing date. A copy of the response should be served upon counsel for the moving party by the Response Deadline. The Response Deadline is at least seventeen (17) days from the date of service hereof.

IF NO OBJECTION OR RESPONSE IS TIMELY FILED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

LBR 4002-1 Duties of a Chapter 11 Debtor-in-Possession.

(l) A chapter 11 debtor-in-possession shall not compensate any present or former insider within the meaning of 11 U.S.C. § 101(31) from estate assets without prior court approval.

(1) A motion to compensate any present or former insider shall recite:

- (i) the necessity for retaining the insider;
- (ii) the services that the insider will perform on behalf of the estate;
- (iii) the amount (including any benefits) that the debtor proposes to pay to the insider, and the terms and conditions of the employment or other undertaking;
- (iv) all compensation, benefits and other payments that the insider has received from the debtor in the six (6) months prior to the petition; and
- (v) the insider's salary at the date of the petition.

(2) ~~Every~~ At least one insider to receive compensation shall verify the motion.

LBR 5001-1 Divisions of the Court and Intra-District Case Assignment.

The United States Bankruptcy Court for the Western District of Louisiana shall consist of five Divisions. Petitions for relief under Title 11 of the United States Code shall be assigned

to one of the Divisions as determined by the following:

- (1) Alexandria Division – Petitions from the Parishes of Avoyelles, Catahoula, Concordia, Grant, LaSalle, Natchitoches, Rapides, Vernon and Winn shall be assigned to the Alexandria Division.
- (2) Lafayette Division – Petitions from the Parishes of Acadia, Evangeline, Iberia, Lafayette, St. Landry, St. Martin, St. Mary, and Vermillion shall be assigned to the Lafayette Division.
- (3) Lake Charles Division – Petitions from the Parishes of Allen, Beauregard, Calcasieu, Cameron and Jefferson Davis shall be assigned to the Lake Charles Division.
- (4) Monroe Division – Petitions from the Parishes of Caldwell, East Carroll, West Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, and Union shall be assigned to the Monroe Division.
- (5) Shreveport Division – Petitions from the Parishes of Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine, and Webster shall be assigned to the Shreveport Division.

LBR 7007-1 Motion Practice.

The parties shall comply with the following:

(g) Motion Must Identify the Relief Sought and Statutory Basis.

The motion shall set forth, in concise, plain terms, the specific relief sought, the party or parties against whom such relief is sought, and the rule or statute upon which the motion or application is predicated. Failure to provide the basis for relief sought is cause for the court to deny the relief requested.

~~*LBR 7008-1 Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding.*~~

~~In an adversary proceeding before a bankruptcy judge, in addition to statements required by Fed. R. Bankr. P. 7008(a), if the complaint, counterclaim, cross-claim, or third-party complaint contains a statement that the proceeding or any part of it is core, it shall contain a statement that the pleader does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.~~

~~*LBR 7012-1 Statement in Responsive Pleading Regarding Consent to Entry of Orders or Judgment in Core Proceeding.*~~

~~In addition to statements required by Fed. R. Bankr. P. 7012(b), if a responsive pleading contains a statement that the proceeding or any part of it is core, it shall contain a statement that the pleader does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or judgment consistent with Article III of the United States Constitution.~~

LBR 7041-1 Dismissal for Failure to Prosecute.

District Court Local Civil Rule 41.3 regarding dismissal for failure to prosecute shall apply to adversary proceedings pending in the Bankruptcy Court.

LBR 9007-1 General Authority to Regulate Notices; “If and Only If” Notice Procedure.

(e) Exceptions to “If and Only If” Notice Procedure.

The “if and only if” notice procedure described in this Local Bankruptcy Rule may not be used for the following requests for relief, which shall be set for hearing or handled in a manner provided below:

- (3) motions to extend the automatic stay under Section ~~326362~~(c)(3) and motions to impose the automatic stay under Section ~~326362~~(c)(4), which are governed by Local Bankruptcy Rule 4001-2 (which requires a definite hearing);

- (9) any motion or application set on an “expedited basis” or “emergency basis” ~~as such terms are defined in Local Bankruptcy Rule 9014-1(f)(1) (defining expedited as any hearing to be held 13 days or less);~~ and

LBR 9014-1 Contested Matters.

(a) Response Required.

Except as set forth in subparagraph (f) hereof, and subject to the requirement that a movant provide proof in support of a motion, a response is required with respect to a contested matter. This rule shall constitute the Bankruptcy Court’s direction requiring a response under Fed. R. Bankr. P. 9014. A response is not required to a chapter 13 trustee’s ~~Notice of Intent to Dismiss, or an~~ objection to confirmation of a chapter 13 plan.

(c) Exchanging Exhibits, Lists, and Designating Deposition Excerpts.

(1) Exchanging Exhibits.

All exhibits that a party intends to offer at the hearing, except those to be offered solely for impeachment, shall be marked to identify them by the party's initials or name, followed by the exhibit number (not letter) under which they will be offered, and shall be exchanged with opposing parties at least one (1) day prior to the scheduled hearing unless otherwise ordered by the court. Unless an electronic alternative is approved by the court, ~~in~~ addition to furnishing a copy of the exhibits to opposing counsel, four (4) bound copies shall be furnished at the beginning of the hearing as follows:

- (i) two (2) bound copies ~~of such exhibits shall be furnished~~ to the Presiding Judge;
- (ii) one (1) bound copy ~~shall be furnished~~ to the electronic court reporting officer; and
- (iii) one (1) bound copy ~~shall be furnished~~ to a witness.

(f) Expedited Motions.

(1) Motion for Expedited or Emergency Hearing.

A request for hearing on an expedited or emergency basis shall be made by written motion, setting forth the reason the matter should be considered on an expedited or emergency basis. ~~“Expedited basis” or “emergency basis” is defined as any hearing to be held less than fourteen (14) days (i.e. thirteen (13) days or less after the filing of the motion on which the hearing is requested.~~ If the court grants a request to set an expedited hearing, the “if and only if” notice procedure described in Local Bankruptcy Rule 9007-1(a) may not be used for a hearing on a motion or application set on an expedited or emergency basis.

~~LBR 9027-1—Removal—Statement in Notice of Removal Regarding Consent to Entry of Orders or Judgment in Core Proceeding.~~

~~If, pursuant to Fed. R. Bankr. P. 9027(a)(1), a notice of removal states that upon removal of the claim or cause of action the proceeding or any part of it is core, the notice shall also state that the party removing the proceeding does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or a judgment consistent with Article III of the United States Constitution.~~

~~LBR 9027-2 Removal—Statement Regarding Consent to Entry of Orders or Judgment in Core Proceeding.~~

~~If a statement filed pursuant to Fed. R. Bankr. P. 9027(e)(3) by a party who filed a pleading in connection with a removed claim or cause of action, other than the party filing the notice of removal, states that the proceeding or any part of it is core, the party shall also state that the party does or does not consent to the entry of final orders or judgment by the bankruptcy judge if it is determined that the bankruptcy judge, absent consent of the parties, cannot enter final orders or a judgment consistent with Article III of the United States Constitution.~~

LBR 9029-1 Local Rules – District Court.

(b) Attorney Admission, Withdrawal and Conduct.

The District Court Local Civil Rules 83.2.1 through 83.2.15 that govern attorney admission, conduct, withdrawal, suspension, and disbarment control in this district and apply in bankruptcy cases and proceedings. ~~They have generally been adopted as stated in Local Bankruptcy Rules 2090-1, through 2091-2; however, certain terms have been modified where appropriate to distinguish where “judge,” “court,” or “clerk” means either Presiding Judge, Bankruptcy Court or Bankruptcy Clerk; or district judge, District Court or District Clerk.~~