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 [Repealed]

**Comments**

5077-1(C)-(D) The Administrative Office of the U.S. Courts has provided guidance to the courts on the statutory and policy requirements for copying official court transcripts of court proceedings filed with the clerk of court. Accordingly, paragraphs (C) and (D) of LBR 5077-1 are repealed. [Change effective 4/1/03.]

5007-1 Former Local Bankruptcy Rule 5077-1 is re-designated as Local Bankruptcy Rule 5007-1. Paragraph (A) is repealed. The first sentence of FRBP 5007(a) adequately addresses the requirement set forth in the deleted sentence and the second sentence is addressed by different means with the reporter. Paragraphs (B) through (E) remain unchanged. Paragraph (F) is new. This paragraph balances the promotion of remote electronic access by the public to transcripts filed with the Clerk with the need to protect personal privacy concerns and other legitimate interests. The procedure set forth therein provides a means by which personal data identifiers and other information may be redacted from a transcript before the transcript is made remotely available electronically to the public. [Re-designated Rule 5007-1, amended Paragraph (A) and new Paragraph (F) effective 1/15/07.]

5007-1 Former Local Bankruptcy Rule 5007-1 is re-designated as Local Bankruptcy Rule 5077-1. [Re-designated Rule 5077-1 effective 03/16/09.]

5007-1(B) Paragraph (B) is amended to conform to requirements established by the Judicial Conference that limit electronic access to transcripts. [Amendment effective 03/16/09.]

5007-1(E) Paragraph (E) is amended to include the obligation to pay a transcriber for an ordered transcript. [Amendment effective 03/16/09.]

5007-1(F) Paragraph (F) is repealed and a standing order has been entered in view of a new policy of the Judicial Conference of the United States to make electronic transcripts of court proceedings available to the public. [Change effective 03/16/09.]

**RULE 6004-1 SALE OF ESTATE PROPERTY**

All motions or complaints for sale of real property or any interest therein shall contain the legal description of said real property sufficient to effect a proper conveyance thereof. Orders

approving the sale of property of the estate or any interest therein shall comply with LBR 9022-1(D).

**Comments**

6004-1 The cross-reference to LBR 9022-1(D) has been added to remind the practitioner of the requirement that orders approving the sale of real estate or any interest therein, like all orders, must stand alone without reference to external documents, e.g., the order should not purport to approve the sale of the real estate or any interest therein “in accordance with the terms of the contract attached to the motion” but should state the essential terms of the sale, e.g., “to John and Joanna Doe for the price of \$173,000.”  
[Change effective 3/1/01.]

**RULE 6004-2 USE, SALE OR LEASE OF PROPERTY**

(A) **Notice:** Notice of a proposed use, sale or lease of property other than in the ordinary course of business, shall be given by the proponent of the notice, and the original notice and proof of service shall be filed with the Court. The notice shall comply with FRBP 2002(a)(2) and 2002(c)(1).

(B) **Objection to Proposed Use, Sale or Lease:** An objection to a proposed use, sale or lease, other than in the ordinary course of business, shall be filed with the Court and served upon the proponent of the action not less than five business days before the date set for the proposed action. The party objecting shall obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

(C) **Sale of Property When Value of Estate Does Not Exceed \$2,500:** The trustee or debtor in possession may give general notice of intent to sell property when all of the non-exempt property of the estate has an aggregate gross value of less than \$2,500. Such notice may be given at the meeting of creditors, and the Clerk is to provide notice in the meeting of creditors notice that this procedure may be followed. An objection to such sale must be filed by a party in interest and served upon the proponent of the sale not later than ten days after the meeting of creditors. The party objecting shall obtain from the Court a hearing date on the objection and shall serve a notice of hearing. Proof of service shall be filed with the objection and notice.

(D) **Report of Sale:** The trustee or debtor in possession shall file with the Court a report of any sale of estate property outside the ordinary course of business. The report shall be filed within thirty days after the sale with a copy to the United States Trustee.

**RULE 6004-3 SALE OR REFINANCE OF PROPERTY BY  
CHAPTER 13 DEBTOR AFTER CONFIRMATION**

(A) A debtor seeking approval for the sale or refinance of real property following confirmation of a plan that revests such property in the debtor shall provide the chapter 13 trustee and all

creditors and parties in interest at least 20 days notice of the motion seeking such approval unless the notice period has been shortened by the court for cause shown.

(B) In addition to setting forth the information required by Rule 2002(c)(1), Fed.R.Bankr.P. the notice shall state:

(1) the total proposed sale price or maximum amount to be secured by the refinancing, as the case may be, and, in the case of refinancing, the amount of existing secured debt to be paid thereby;

(2) the amount of the sale or loan proceeds to be applied to the debtor's obligations under the confirmed plan;

(3) whether such payment will result in full payment of all allowed claims; and

(4) if all allowed claims will not be paid in full, the amount of the sale or loan proceeds that will be paid to the debtor.

(C) If no objection is filed within the objection period, the court, in its discretion, may enter an order endorsed by the chapter 13 trustee approving the sale or refinance without holding a hearing.

### Comments

6004-3 [New Rule effective 10/17/05.]

## RULE 6007-1 ABANDONMENT

(A) **Notice of Abandonment:** The Clerk shall give notice in the meeting of creditors notice that the trustee may, at the meeting of creditors, give notice of intention to abandon property of the estate that is burdensome or of inconsequential value to the estate. The Clerk shall give notice that parties in interest who object to such abandonment may state their oral objections at the meeting of creditors, obtain a hearing date from the Court, transmit notice of a hearing on their objection and file such notice with proof of service with the Court, within ten days after the meeting of creditors.

(B) **Order of Court Directing Abandonment:** Any party in interest requesting the Court to order the trustee to abandon any property of the estate shall obtain a hearing date from the Court, transmit copies of the motion and notice containing the hearing date to all parties in interest, and file with the Clerk the motion, notice and proof of service.

(C) **Order of Court Approval of Abandonment:** Orders for approval of abandonment of property of the estate shall comply with LBR 9022-1(D).

**Comments**

6007-1(C) This new provision conforms to the amendment to LBR 9022-1(D). [Change effective 3/1/01.]

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**RULE 6008-1 REDEMPTION**

A party seeking redemption of property from a lien or sale shall request from the Court a hearing date, transmit the motion and notice of hearing to all parties in interest, and file the motion, notice and proof of service with the Clerk. Provided, however, that if the redemption is uncontested the Court may direct that no hearing be held.

**Comments**

Change to note that the Court may direct that no hearing is required if the initial request is uncontested.

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**RULE 7003-1 ADVERSARY PROCEEDING COVER SHEET**

At the time of filing an adversary proceeding, counsel, or a *pro se* litigant, shall file with the complaint a properly completed A.O. Form B 104, Adversary Proceeding Cover Sheet. The Clerk is directed to provide such forms to the public upon request.

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**RULE 7004-2 SUMMONS**

(A) **Issuance:** The Clerk shall issue to the plaintiff for service a summons for each party as listed on the adversary cover sheet.

(B) **Time Limit for Service:** If a summons is not timely delivered or mailed within ten days following issuance of the summons, the party responsible for the original service shall bear the responsibility for issuance of further process.

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**RULE 7007-1 FINANCIAL DISCLOSURE**

If the adversary proceeding is not assigned to the Electronic Case Filing System, the Financial Interest Disclosure Statement shall be filed in duplicate; otherwise the statement shall be filed consistent with the Electronic Case Filing System requirements approved by the Court.

(A) **Required Disclosure:** [Repealed]

(B) **Time for Filing:** [Repealed]

(C) **Statement Delivered to Judge:** [Repealed]

**Comments**

The Committee on Codes of Conduct of the Judicial Conference of the United States is undertaking to develop a national rule requiring parties in district and bankruptcy courts to disclose their corporate parents. Pending completion of a national rule that addresses this issue, LBR 7007-1 has been promulgated for the purpose of establishing the required interim financial disclosure. The statement referenced in LBR 7007-1, Financial Interest Disclosure Statement form, is attached as new Exhibit 6. [New Rule effective 3/1/01.]

7007-1 This rule was promulgated as an interim measure pending creation of FRBP 7007.1, which governs the filing of financial disclosure statements. Accordingly, with the exception of the number of statement copies to be filed using the form attached as Exhibit 6, this rule no longer is needed. [Change effective 12/1/03.]

**RULE 7013-1 COUNTERCLAIMS**

[Repealed]

**Comments**

7013-1 This rule is repealed upon a finding that it is no longer needed. [Repeal effective 10/17/05.]

**RULE 7016-1 PRETRIAL PROCEDURES**

(A) ***In Default Cases:*** Where the defendant is in default and there has been no appearance on the defendant's behalf, the procedure outlined herein shall not be applicable, but the Court may direct the party not in default to appear for the purpose of noting a default, the entry of a default judgment, and for scheduling a date for trial on the issue of damages if required by law. If the party not in default fails to take action to prosecute its claim after reasonable notice to appear or take such action, the Court may dismiss the proceeding for failure to prosecute.

(B) ***In All Other Cases:*** In all other adversary proceedings, as promptly as possible after suit has been filed, the Court may schedule an initial pretrial conference at which trial counsel shall be present. At such pretrial conference, the Court may issue an order fixing dates for:

- (1) the amendment of pleadings and joinder of additional parties,
- (2) the completion of discovery,
- (3) the filing and hearing of motions, and
- (4) a final pretrial conference and/or trial.

(C) ***Optional Items in Scheduling Order:*** The Court may include in such order, or any supplemental order, such other provisions as are appropriate to assist in expediting the trial or other disposition of the case, and may specify the requirements of any final pretrial conference order which shall be presented to the Judge for entry at the time of the final pretrial conference. While the primary obligation of preparing the final pretrial conference order rests upon counsel for plaintiff, all counsel are requested to meet at least seven days in advance of the conference with the Court in order to discuss and prepare such order, and the Court may require such meeting of counsel by its order.

(D) ***Continuance of Dates Set in Scheduling Order:*** The parties and their counsel are bound by the dates specified in said order and no extensions or continuances thereof shall be granted in the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the normal processes of discovery shall not constitute good cause for an extension or continuance.

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### RULE 7026-1 DISCOVERY

(A) ***Objections to be in Writing:*** All objections to interrogatories, depositions, requests, or applications under FRBP 7026 through FRBP 7037, as well as all motions and replies thereto concerning discovery matters, shall be in writing. If time does not permit the filing of a written motion, the Court may waive this requirement.

(B) ***Objections to Discovery Process:*** An objection to any interrogatory, deposition, request, or application under FRBP 7026-7037, shall be served within fifteen days after service of the interrogatory, deposition, request or application, unless otherwise ordered by the Court. Any such objection shall be specific and the reasons for the objection shall be stated. Any such objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter not specifically objected to.

(C) ***Motions to Compel:*** After a discovery request is objected to or not timely complied with, and if not otherwise resolved, it is the responsibility of the party initiating discovery to place the matter before the Court by a proper motion pursuant to FRBP 7037, to compel an answer, production, designation or inspection. Such motion must be accompanied by a memorandum as required by Local Bankruptcy Rule 9013-1(G).

(D) ***Other Discovery Motions:*** A motion for a protective order pursuant to FRBP 7026(c) or FRBP 7037(a)(2), or a motion to compel physical or mental examination pursuant to FRBP 7035, shall be accompanied by a memorandum as required by Local Bankruptcy Rule 9013-1(G).

(E) ***Replies to Discovery Motions:*** Replies to discovery motions mentioned in subdivisions (E), (F) and (I) herein shall be filed within ten days after service of the motion and memorandum unless otherwise ordered by the Court. Responses, if any, to all other discovery motions also shall be filed within ten days.

(F) ***Compliance with Discovery Orders***: After the Court has ruled on a discovery motion, any answer, production, designation, inspection or examination required by the Court shall be completed within ten days after the entry of the order of the Court, unless otherwise ordered by the Court.

(G) ***Failure to Comply with Order***: Should a party fail to comply with an order of the Court concerning discovery motions, it is the responsibility of the party objecting to such failure to comply to place the matter before the Court by a proper motion for supplementary relief pursuant to FRBP 7037. Such motion must be accompanied by a written memorandum as required by Local Bankruptcy Rule 9013-1(G).

(H) ***Consultation Among Counsel***: Counsel are encouraged to participate in pretrial discovery conferences in order to decrease, in every way possible, the filing of unnecessary discovery motions. No motion concerning discovery matters may be filed until counsel shall have explored with opposing counsel the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning discovery matters unless the motion is accompanied by a statement of counsel that a good-faith effort has been made between counsel to resolve the discovery matters at issue.

(I) ***Extensions***: Depending upon the facts of the particular case, the Court in its discretion may, upon appropriate written motion by a party, allow an extension of time in excess of the time provided by the Federal Rules of Civil Procedure, these Local Bankruptcy Rules, or previous court order, within which to respond to or complete discovery or to reply to discovery motions. Any agreement between counsel relating to any extension of time is of no force or effect; only the Court, after appropriate motion directed thereto, may grant an extension of time. Unless otherwise specifically provided, such extension will be upon the specific condition that, regardless of what may be divulged by such discovery, it will not in any manner alter the schedule of dates and procedure previously adopted by the Court in the particular case.

(J) ***Sanctions***: Should any party or the party's attorney fail to comply with any of the provisions of this Local Bankruptcy Rule, or otherwise fail or refuse to meet and confer in good faith in an effort to narrow the areas of disagreement concerning discovery, sanctions provided by FRBP 7037, may be imposed.

(K) ***Applicability to Contested Matters***: See LBR 9014-1.

(L) ***Expert Disclosure***

(1) ***Agreement upon Disclosure***: Counsel are encouraged to agree upon the sequence and timing of the expert disclosures required by FRBP 7026. All such agreements must be in the form of a consent order entered by the Court.

(2) ***Timing of Mandatory Disclosure***: Absent such a consent order, or unless otherwise ordered, the disclosures required by FRBP 7026(a)(2) shall be made as follows:

(a) **Adversary Proceedings:** In adversary proceedings, the disclosures required by FRBP 7026(a)(2) shall be first made by the plaintiff not later than sixty days before the date set for completion of discovery; then by the defendant thirty days before the date set for completion of discovery. Plaintiff shall disclose fifteen days after defendant's disclosure any evidence that is solely contradictory or rebuttal evidence to the defendant's disclosure.

(b) **Contested Matters Except Relief from Stay:** LBR 9014-1 generally excludes the application of FRBP 7026(a)(2) in contested matters. Pursuant to LBR 9014-1, however, exceptions to this general rule may be made on order of the Court. When so ordered, the disclosures required by FRBP 7026(a)(2) shall be made by the movant or applicant, as the case may be, within thirty (30) days prior to the hearing date; then by the respondent or objecting party, on the later of ten (10) days after the movant or applicant presents the required disclosures, or on the date that a response to the motion or application is due.

(c) **Relief from Stay:** LBR 9014-1 generally excludes the application of FRBP 7026(a)(2) in relief from stay matters. Pursuant to LBR 9014-1, however, exceptions to this general rule may be made on order of the Court. When so ordered, the disclosures required by FRBP 7026(a)(2) shall be made by the parties within fifteen (15) days prior to the date set for final hearing on the motion. The parties shall disclose seven (7) days after disclosure any evidence that is solely contradictory or rebuttal evidence to each other's disclosure.

(3) **Failure to Comply:** Any party who fails to comply with these mandatory disclosure requirements may, at the court's discretion, be prohibited from using the undisclosed expert testimony at trial.

(4) **General Provisions:** For purposes of this Local Bankruptcy Rule, counterclaim-plaintiffs, cross-plaintiffs, and third-party plaintiffs shall be plaintiffs as to all elements of the counterclaim, cross-claim or third-party claim. Answers to interrogatories directed at clarification of the written reports of expert witnesses disclosed pursuant to FRBP 7026(a)(2) shall be due fifteen days after service, unless otherwise ordered.

(M) **Filing With Court:** Unless otherwise permitted by the Court, on its own initiative or for good cause shown by motion, discovery materials, depositions upon oral examination and upon written questions, interrogatories, requests for documents, requests for admission, and answers and responses or objections to such discovery requests shall not be filed with the pleadings or papers in any case or proceeding. Where specific discovery material may appropriately support or oppose a motion, the specific discovery material in question shall be appended as an exhibit to the motion, or in response thereto, without having been previously filed. Discovery material otherwise permitted to be used at trial may be properly so used, if otherwise admissible, without having been previously filed.

### Comments

The purpose of this change is to resolve the apparent conflict between 7026-1(D) and 7026-1(P) by noting that the objection is to be served rather than filed within fifteen days after the initial discovery request. If approved, it would bring the rule into compliance with the corresponding local rule for the U.S. District Court.

Paragraph (O) is new and incorporates herein the same rule as in the U.S. District Court for the Eastern District of Virginia. [Changes effective 1/1/97.]

The original language of Paragraphs (A), (B) and (N) opting out of certain provisions of the Federal Rules of Bankruptcy Procedure have been eliminated since such opt out no longer is permitted under the national rules. Rules 26(a)(1), (3) and (4), (b)(1)-(2), (d) and (f), 5(d), 30(d) and 37(c) of the Federal Rules of Civil Procedure were amended effective December 1, 2000. Original Paragraphs (A) and (B) have been repealed. Original Paragraphs (C) through (K) have been redesignated Paragraphs (A) through (I). Original Paragraph (L), (dealing with unnecessary discovery motions or objections) which was repealed effective February 1, 2000, has been eliminated. Original Paragraphs (M) through (P) have been redesignated Paragraphs (J) through (M). The heading and text to original Paragraph (N) (dealing with opt-out provisions) have been eliminated and a new Paragraph (K), which references new LBR 9014-1, has been substituted to conform to F.R.Civ.P. 26. [Changes effective 12/1/00.]

7026-1(L) This paragraph is repealed since it was felt that the paragraph no longer is needed. [Change effective 2/1/00.]

7026-1(L)(2)(b) Under the current rule provision, the respondent or objecting party may not have had an affirmative duty to make the required disclosures if the movant or applicant did not make any such disclosures. The amended rule provision makes clear that the expert disclosure requirement of a respondent or objecting party is independent of the requirement imposed on a movant or applicant. [Change effective 3/1/01.]

7026-1(L)(2)(b) and (c) These changes result from an amendment to LBR 9014-1, which added FRBP 7026(a)(2) to those subdivisions of Rule 7026 that are excluded generally from application in contested matters and in relief from stay matters. [Change effective 7/1/02.]

**RULE 7030-1 DEPOSITIONS**

(A) ***Deposition of Party***: Any party or representative (officer, director or managing agent) of a party filing an adversary proceeding in the proper division of this Court may ordinarily be required to submit to a discovery deposition at a place designated within the division. Exceptions to this general rule may be made on order of the Court when the party, or representative of a party, is of such age or physical condition, or special circumstances exist, as may reasonably interfere with the orderly taking of a deposition at a place within the division. A defendant, who becomes a counter-claimant, cross-claimant or third-party plaintiff, shall be considered as having filed an action in this Court for the purpose of this Local Bankruptcy Rule. This subdivision shall not apply to an involuntary plaintiff or an interpleader plaintiff.

(B) ***Recording and Transcribing of Discovery Deposition***: The expense of recording a deposition shall be paid by the party seeking to take same. The expense of transcribing the deposition shall be paid by any party ordering the preparation of the original. Any other party desiring a copy of said deposition shall pay for same at the copy rate. Parties may, by agreement, equally share the costs of attendance and transcribing, including such copies as desired. The costs of the original transcript shall be included in the taxable costs, but only if the prevailing party has made use of the deposition during the trial, unless the parties otherwise agree.

(C) ***Attorneys' Fees***: Unless the services of associate counsel are retained in lieu of travel expense, it is not the policy of the Court to make an allowance of counsel fees in attending any deposition, except to the extent provided by statute and otherwise in this Local Bankruptcy Rule, but the Court reserves the right to make a reasonable allowance where the circumstances of the case may justify the same.

(D) ***Travel Expense***: The "costs of travel" as provided in this Local Bankruptcy Rule shall consist of the actual cost of travel by air or other public transportation, or an allowance for travel by private automobile at mileage rates as set forth in 28 U.S.C. §1821, whichever means of transportation is actually used, including the cost of transportation from the office or residence to the terminal of the public transportation and from the destination terminal to the place of the taking of the deposition and/or overnight accommodations, if deemed necessary, and return. The Court may, in its discretion, make an appropriate allowance for food and lodging.

The "costs of travel" as herein defined shall apply to any witness other than a party, or representative of a party, required to attend the taking of a deposition. As to any witness attending a trial or hearing pursuant to Rule 45(1)(b), FRCP, the expense of such costs of travel shall be taxed as costs if said witness testifies or if it is reasonably necessary for the witness to appear, but said costs of travel shall be limited to what would have been expended if said witness resided one-hundred miles or more from the place of the trial or hearing, together with such reasonable allowance, if required for the purpose of the witness testifying, for overnight accommodations and food. If the witness resides within one-hundred miles of the place of trial or hearing, the costs of travel shall be limited to the mileage and attendance fees as provided by law.

(E) **Reviewing Depositions Prior to Jury Trials:** Whenever depositions are expected to be presented in evidence, counsel shall, prior to the final pretrial conference or, if same are not then available, prior to the day of jury trial, review such depositions and:

- (1) extract therefrom a short statement of the qualifications of any expert witness to be read to the jury,
- (2) eliminate unnecessary and/or irrelevant matters, and
- (3) eliminate all objections and statements of counsel to avoid reading same to a jury.

In the event counsel are unable to agree on what shall be eliminated, they shall submit same to the Court for a ruling thereon before the date of trial. Failure to do so will constitute a waiver of objections.

(F) **Summaries of Depositions:** [Repealed]

(G) **Reasonable Notice:** As a general rule, seven business days in advance of the contemplated taking of a deposition shall constitute reasonable notice of the taking of a deposition in the continental United States, but this will vary according to the complexity of the contemplated testimony and the urgency of taking the deposition of a party or witness at a particular time and place.

#### Comments

7030-1 This rule was changed from 7027-1 to 7030-1; FRBP 7027 refers to depositions taken before the filing of an adversary proceeding in order to preserve the testimony; rule 7030 is the general rule concerning depositions. [Change effective 2/1/00.]

Rule 7030-1 A Technical modification referencing FRCP 45 is made in the text to Paragraph (D) of the rule. [Change effective 3/17/08.]

Rule 7030-1(F) is repealed as no longer being needed. [Change effective 3/17/08.]

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### RULE 7041-1 DISMISSAL OF ADVERSARY PROCEEDINGS

At least ten days written notice of a hearing on the proposed voluntary dismissal of a complaint (or count within a complaint) objecting to the debtor's discharge shall be given to the United States Trustee, the trustee, any creditor or party in interest who has filed a request for notices, and, in an individual chapter 11 case, the members of the creditors' committee, or, if no creditors committee has been appointed, the creditors on the list of 20 largest unsecured creditors. The notice shall fully and clearly state any consideration paid or promised to be paid by the debtor to

the plaintiff in connection with such dismissal. Whether an actual hearing will be required if no objections are filed is within the discretion of the judge.

**Comments**

7041-1 FRBP 7041 provides that “a complaint objecting to the debtor’s discharge shall not be dismissed at the plaintiff’s instance without notice to the trustee, the United States trustee, *and such other persons as the court may direct...*” This leads to something of a cumbersome situation where a plaintiff does seek to dismiss such a complaint (or count within a complaint). Literally, it seems that the plaintiff would first have to advise the court of such intent and obtain an order directing to whom the notice should be given, then appear again to have the actual order of dismissal considered and entered. This new rule is intended to clarify matters as to who had to be given notice. [New rule effective 2/1/00.]

**RULE 7054-1 COSTS**

(A) **Taxation Generally:** Costs shall be taxed as provided by law in all actions in this Court and, if not otherwise provided by law, in accordance with these Local Bankruptcy Rules.

(B) **Payment in Advance:** All fees and costs due the Clerk in adversary proceedings shall be paid in advance except:

- (1) in actions brought on behalf of seamen,
- (2) where a party has been authorized to proceed *in forma pauperis*, or
- (3) where a party is otherwise exempt by law, such as the debtor (other than a debtor in possession) in a chapter 7, 11, 12 or 13 case, the United States, or in a proceeding where the United States Trustee, acting as trustee, or a trustee in a case under title 11 is the plaintiff, the filing fee shall be payable only from the estate and to the extent there are funds in the estate.

(C) **RESERVED**

(D) **Bonds and Security for Costs:** No bond or security for costs shall be required of parties instituting adversary proceedings, unless otherwise ordered by the Court.

(E) **Clerk to Tax:** The Clerk may tax costs in an adversary proceeding as provided by FRBP 7054(b).

**RULE 7056-1 SUMMARY JUDGMENT**

Motions for summary judgment are governed by LBR 9013-1. Where the non-moving party is *pro se*, the notice of hearing on the motion shall comply with LBR 9013-1(M)(3).

**Comments**

LBR 7056-1 is new and provides a cross-reference to LBR 9013-1 (M) (3), which also is new. [New Rule effective 3/1/01.]

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**RULE 7067-1 DEPOSIT AND DISBURSEMENT OF COURT REGISTRY FUNDS**

(A) **Order Required:** The Clerk shall deposit into the registry of the Court any sum so directed by order.

(B) **District Registry Procedure and Form of Order:** The order proponent shall follow the District Registry Procedure. In addition to an appropriate caption and attorney identification, a proposed Order Directing Deposit shall include the following elements:

- (1) the name, address and telephone number of the person or other entity paying the money into the registry of the Court,
- (2) the name and address of the person or other entity for whom the money is being held, and
- (3) the sum of money and date to be paid into the Court.

(C) **Order of Deposit:** An order satisfying the requirements of this Local Bankruptcy Rule is available on the Court's website.

(D) **Investment:** The Clerk shall deposit the funds in an interest-bearing savings account.

(E) **Provision for Payment:** In addition to an appropriate caption and attorney identification, a proposed Order Directing Disbursement shall include the following elements:

- (1) the sum of money to be paid to the person or other entity receiving the money, along with any interest accrued thereon, less the Court's fee, as authorized by the Judicial Conference of the United States, and
- (2) the name and address of the person or other entity receiving the money.

(F) **Order Directing Disbursement:** An order satisfying the requirements of this Local Bankruptcy Rule is available on the Court's website.

**Comments**

7067-1 Paragraph (B) and subparagraph (B)(2) are amended to bring the rule in line with the Judicial Conference policy on privacy and public access to electronic case files and with conforming amendments to the Federal Rules of Bankruptcy Procedure. The District Registry Procedure makes provision for any required submission of the order proponent’s social security number. [Change effective 12/1/03.]

7067-1 Paragraph (B) amends the elements of the Order Directing Deposit. Paragraph (C) is amended to advise that the order is available on the Court’s website (at “Bankruptcy Forms”). Paragraphs (D) and (E) are new. Paragraph (F) is new. The form referenced at (F) also is available on the Court’s website (at “Bankruptcy Forms”). [Change effective 9/1/06.]

**RULE 8005-1 APPEAL BOND**

(A) ***Exemption From Appeal Bond:*** The Commonwealth of Virginia, or any political subdivision or any office or agent thereof, shall not be required, unless otherwise ordered by the Court, to post a supersedeas bond or other undertaking which includes security for the payment of costs on appeal.

(B) ***Failure to Post Appeal Bond:*** In any case in which a monetary judgment is entered, and in such other cases as the Court may order, any party desiring to appeal from the adverse effect of such judgment shall be required, unless otherwise ordered by the Court, to post a supersedeas bond with sufficient security to respond to the judgment of the Court in the event of affirmance on appeal. In the event of failure to give such bond with security, the prevailing party may enforce such judgment as provided by law without regard to the pendency of said appeal.

(C) ***Stipulation of Parties:*** In lieu of any supersedeas bond, the parties may stipulate with respect to any agreement or undertaking. In lieu of any cost bond, the parties may stipulate with respect to any agreement or undertaking conditioned that the moneys and properties of the Court are fully protected or prepaid.

**RULE 8006-1 RECORD ON APPEAL**

(A) ***Record on Appeal- Exclusions:*** Unless otherwise directed by the Court, the record on appeal in any matter shall not include counsel’s opening statements or arguments of counsel, including arguments of counsel on motions.

(B) ***Designating Record on Appeal:*** Unless the parties file a timely written designation of record with the Clerk pursuant to FRBP 8006 designating the papers which shall constitute the

record on appeal, the Clerk shall forward to the proper appellate court a certification that no designation of record was filed.

(C) **Copies of Record:** The party filing a designation of items to be included in the record on appeal shall file with the designation either:

- (1) a complete and correct copy of all items designated, or
- (1) a copy request form with check payable to the Court's authorized copy service. Copy request forms are available from the Clerk's Office upon request.

**RULE 9010-1 REPRESENTATION AND APPEARANCES;  
POWERS OF ATTORNEY**

**Requirement for Counsel:** Except for filing or withdrawing a proof of claim, request for notices or notice/service, notice of appearance, reaffirmation agreement, creditor change of address, transfer of claim, or a transcript of court proceedings, no party or entity other than a natural person acting in his or her own behalf or, to the extent permitted by §304(g) of Pub.L. 103-394, a child support enforcement agency, may appear in a bankruptcy case or proceeding, sign pleadings, or perform any act constituting the practice of law except by counsel permitted to appear under LBR 2090-1. This rule applies to corporations, partnerships, limited liability companies, associations, and trusts, as well as to individuals acting in a representative capacity (such as under a power of attorney) for another. Any petition, pleading or paper, other than those set forth in this rule, filed on behalf of an entity that is not a natural person acting in his or her own behalf and not signed by counsel permitted to appear under LBR 2090-1 shall be stricken by the clerk, or in the case of a petition, dismissed, unless the deficiency is cured within ten days of the mailing or delivery of a notice of deficiency.

**Comments**

9010-1 [New rule effective 2/1/00.]

9010-1 This rule adds several new items to the list of items that may be filed with the court without legal representation. [Change effective 10/17/05.]

9010-1 Modifications are made to the list of items that may be filed with the court without legal representation. The rule conforms to Interim Procedure 9010-1, which is repealed. [Change effective 3/17/08.]

**RULE 9013-1 MOTIONS PRACTICE**

(A) **Definition of Motion:** For the purposes of this Local Rule, “motion” shall include any motion, application, other request for relief from the Court, or proposed action to be taken under

the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, or Local Bankruptcy Rules but shall not include:

- (1) any petition commencing a case under the Bankruptcy Code,
- (2) any complaint commencing an adversary proceeding under the Federal Rules of Bankruptcy Procedure,
- (3) any motion for relief from the automatic stay, or
- (4) any proposed order
- (5) objection to claim [see LBR 3007-1].

(B) **Requirement of Written Motion:** In all cases or proceedings, all motions shall be in writing unless made during a hearing or trial. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.

(C) **Grounds for, relief sought, and whether a hearing has been requested to be stated:** All motions, responses, objections, applications (other than for compensation) and similar requests shall state with particularity the grounds therefor and shall set forth the relief or order sought. If a hearing on the motion has been set or requested by the movant, the motion shall so state.

(D) **Number of Copies:** Each original motion, objection, application, written memorandum, or similar request filed with the Court shall be accompanied by a complete copy thereof.

(E) **Use of Forms:** Forms, including motions and interrogatories, may be used only if all inapplicable references have been deleted and the proponent so certifies.

(F) **Return Date, Conference of Counsel:** Except as otherwise provided by an order of the Court or by the rules, all motions shall be made returnable to the time obtained from and scheduled by the Court for a hearing thereon. In any Division that has a regular motions day practice, the objection may be made returnable to a motions day in compliance with the motions day practice in that Division. Before requesting a hearing date on any motion, the proponent shall confer with opposing counsel, in person or by telephone, in a good-faith effort to narrow the area of disagreement.

(G) **Memorandum of Points and Authorities**

- (1) All motions shall be accompanied by a written memorandum setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies, unless otherwise directed by the Court and except as noted below. The memorandum and the motion or response thereto, may be combined in a single pleading.
- (2) A memorandum need not accompany a motion or response thereto:

- (a) for a more definite statement,
- (b) for an extension of time to respond to pleadings, unless the time has already expired,
- (c) for a default judgment,
- (d) solely related to discovery matters, except as set forth in Local Bankruptcy Rule 7026-1(E),(F), and (I),
- (e) for a continuance,
- (f) for a voluntary dismissal or conversion under chapters 7, 11, 12 or 13 of title 11, United States Code, or
- (g) that is stipulated to by all parties in interest.
- (h) to avoid a lien pursuant to §522(f)

**(H) Responses to Motions**

(1) **Requirement of written response:** Except as otherwise provided by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Bankruptcy Rules, or by order of the Court, responses in opposition to motions must be in writing, state with particularity the grounds therefor, be filed with the Court and served upon all parties affected thereby and the United States Trustee.

(2) **Requirement of memorandum:** Unless otherwise directed by the Court, except as herein above noted, the party filing a response in opposition to a motion shall file therewith a memorandum of points and authorities setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the party relies. The memorandum and the motion or response thereto, may be combined in a single pleading.

**(3) Time for filing response and memorandum**

(a) **Where no hearing has been set or requested,** the opposing party may file a response, with a supporting memorandum, within ten days but not thereafter without leave of the Court unless the motion relates to a matter for which a twenty day notice is required under FRBP 2002(a), in which event a response may be filed within twenty days. The movant may file a rebuttal memorandum within three business days after the filing of the opposing party memorandum. For good cause, the responding party may be given additional time or may be required to file a response, memorandum, and supporting documents within such shorter period of time as the Court may specify.

(b) *Where hearing has been set on at least twenty days notice*, the opposing party may file a response, with a supporting memorandum, not later than five business days before the date of the hearing.

(c) *Where hearing has been set on less than twenty days notice*, the opposing party may file a response, with a supporting memorandum, not later than two business days before the date of the hearing.

(d) *When objection to a claim is filed*, the opposing party may file a response, with supporting memorandum, within thirty days of the filing of the objection. If no response is filed, the Court may enter an order without a hearing.

(4) *Effect of not timely filing an objection with a supporting memorandum*: If a response with a supporting memorandum is not timely filed and served, the Court may deem the opposition waived, treat the motion, application, pleading, or proposed action as conceded, and enter an appropriate order granting the requested relief. If no objection with supporting memorandum is timely filed, the movant shall, within ten days thereafter, file and serve a proposed order which satisfies the requirements of Local Bankruptcy Rule 9022-1.

(I) *Summary Judgment - Time of Filing*: A party desiring to file a motion for summary judgment must act with reasonable dispatch. No motion for summary judgment will be considered unless filed within a reasonable time prior to the date of trial, thus permitting time for the Court to hear arguments and consider the merits after completion of the schedule specified in this Local Bankruptcy Rule.

(J) *Continuances*: A motion for continuance of a hearing or trial date shall not be granted by mere agreement of counsel. Any such motion will be considered by the Court only in the presence of all counsel, and no continuance will be granted other than for good cause and upon such terms as the Court may impose.

(K) *Extensions*: Any request for an extension of time relating to motions must be in writing and, in general, will be looked upon with disfavor.

(L) *Determination of Motions Without Oral Hearing*: In accordance with Rule 78, F.R.C.P., the Court may rule upon motions without an oral hearing, unless otherwise required by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these Local Bankruptcy Rules.

**(M) *Giving Notice of Motion or Hearing***

(1) *Where no hearing is requested or required*: The notice of any motion where no hearing is required or requested (i.e., a notice of opportunity for a hearing, where a hearing is set only if a response is filed objecting to the requested relief or requesting a hearing), shall contain language substantially in accordance with Official Form 20A and

setting forth the requirement of a response under subparagraph (H)(3)(a) in substantially the following form:

NOTICE

Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within ten [*or twenty*] days of the service of this notice objecting to the relief requested, the Court may deem any opposition waived, treat the motion [*or application or proposed action*] as conceded, and issue an order granting the requested relief without further notice or hearing.

(2) ***Where a hearing is required or requested:*** The notice of any motion where a hearing is required or requested shall contain language substantially in accordance with Official Form 20A and setting forth the requirement of a response under subparagraph (H)(3)(b) or (H)(3)(c) in substantially the following form:

NOTICE

Under Local Bankruptcy Rule 9013-1, unless a written response to this motion and supporting memorandum are filed with the Clerk of Court and served on the moving party within five [*or two*] business days before the scheduled hearing date, the Court may deem any opposition waived, treat the motion [*or application or proposed action*] as conceded, and issue an order granting the requested relief without further notice or hearing.

(3) ***Where summary judgment is requested against pro se party:*** The notice of any motion seeking summary judgment in which the non-moving party is *pro se* shall conform substantially to Official Form 20A and, in addition, shall set forth the requirement for a response in substantially the following form:

NOTICE

A motion for summary judgment is a request that one or more issues in a case be decided without holding a trial. Motions for summary judgment are governed by Rule 56, Federal Rules of Civil Procedure. Summary judgment may be granted if (a) the material facts are not genuinely disputed and (b) based on those facts, the party asking for summary judgment is entitled to judgment as a matter of law. If you wish to oppose the motion, you must file with the court and serve on the other party, a written response at least two [*or five*] business days prior to the hearing.

**If you fail to file a timely written response to the motion, the court may assume you do not oppose the motion and may grant the motion without holding a hearing.** If you disagree with any of the facts stated by the other party, you must include with your response sworn statements from yourself or other knowledgeable witnesses supporting your version of the facts. A sworn statement may take the form either of an affidavit or a declaration signed under penalty of perjury. Any documents you want the court to consider should be identified in, and attached to, the sworn statements. If you are unable to obtain sworn statements supporting your position, you must file a sworn statement stating why you are unable to obtain such statements at this time.

#### **Comments**

9013-1 (M) (3) The additional requirements with respect to summary judgment motions against *pro se* parties are included to comply with *Roseboro v. Garrison*, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), and to conform with changes in the Local Rules of Practice of the United States District Court for the Eastern District of Virginia. [Change effective 3/1/01.]

(N) ***Request for Expedited Hearing:*** A motion requesting an expedited hearing shall be accompanied by a Priority Handling Cover Sheet and a certification verifying that the proponent:

- (1) has carefully examined the matter and concluded that there is a true need for an emergency hearing,
- (2) has not created the emergency through any lack of due diligence, and
- (3) has made a *bona fide* effort to resolve the matter without hearing.

(O) ***Cancellation of Scheduled Hearings:*** It is the responsibility of counsel for the plaintiff/movant to advise the Court of any settlement or any other valid reason that a Court scheduled pretrial conference, hearing or trial need not be conducted. Counsel are advised to provide the Court with such notification as far in advance of any such conference, hearing or trial as is practical under the circumstances. Failure of such counsel to properly and timely notify the Court may result in the imposition of sanctions.

#### **Comments**

9013-1(A) Revision required conforms with the addition of LBR 3007-1.

9013-1(D) Change recommended to add written memorandum to the list of items requiring an additional copy at the time of filing.

9013-1(F) Change recommended to note the procedure to be used in those Divisions where a regular motions day practice is in place.

9013-1(J) Change recommended to the make the provisions for continuances applicable also to hearings.

9013-1(M) These changes note the use of Official Form 20A approved by the Judicial Conference at its September 1997 meeting with the mandatory implementation date of March 1, 1998.

New paragraph (H)(3)(d) sets the time period for filing a response to the filing of an objection to a claim. Paragraph (M) is rewritten to include the language for the notice of opportunity to respond. Paragraph (N) is amended to emphasize the need for a Priority Handling Cover Sheet for requests for expedited hearing. Paragraph (O) is new and includes rules for canceling scheduled hearings. [Changes effective 1/1/97]

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**RULE 9014-1 WHETHER HEARING IS EVIDENTIARY OR  
PRELIMINARY**

(A) *Whether Hearing is Evidentiary or Preliminary*: [Repealed]

(B) *Whether Hearing is Evidentiary or Preliminary*: Except as provided for in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these Local Bankruptcy Rules, or as otherwise ordered by the Court on its own motion or on motion of a party, all parties shall be prepared to present evidence and testimony at any scheduled hearing where the hearing has been set on at least thirty days notice unless the parties agree or the Court orders that evidence and testimony will be presented at any scheduled hearing that is set on less than thirty days notice.

**Comments**

This new Local Bankruptcy Rule clarifies how the requirements of F.R.Civ.P. 26, as incorporated by reference in FRBP 7026, apply to contested matters. [New rule effective 12/1/00.]

9014-1 This change reflects the addition of FRBP 7026(a)(2) to LBR 9014-1. [Change effective 7/1/02.]

9014-1(B) This new provision is intended to conform the Court's practice to new FRBP 9014(e) regarding whether a hearing will be evidentiary or preliminary so as to avoid unnecessary expense and inconvenience. [New rule effective 8/1/03.]

9014-1 With the amendment to FRBP 9014(c) that became effective December 1, 2004, paragraph (A) is repealed as no longer being needed [Change effective 10/17/05.]

**RULE 9016-1 SUBPOENAS**

(A) **Request for Subpoena:** Requests for subpoenas shall be in writing and, except as provided in subdivision (G) with respect to a subpoena for a deposition to be taken in a proceeding pending in another jurisdiction, signed by counsel qualified to practice in this Court and noted of record in the action in which the subpoenas are to issue. Attorneys admitted to practice in this Court may also issue and sign a subpoena on behalf of:

- (1) a court in which the attorney is authorized to practice; or
- (2) a court for a district in which a deposition or production is compelled by the subpoena, if the deposition or production pertains to an action pending in a court in which the attorney is authorized to practice.

Individuals appearing *pro se* may apply for subpoenas in their own behalf.

Each request for subpoena shall:

- (1) be accompanied by a subpoena which has been completed except for issuance by the Clerk, and
- (2) unless the party is exempt therefrom, be accompanied by a check made payable to the witness for at least one day's attendance plus mileage at the rate allowed by law.

(B) **Return Date of Subpoenas:** All subpoenas shall be made returnable to the place, date and time of trial or hearing unless otherwise ordered by the Court.

(C) **Service of Subpoenas:** Unless the party requesting same is:

- (1) authorized to proceed *in forma pauperis* pursuant to 28 U.S.C. §1915, or is a seaman authorized to proceed under 28 U.S.C. §1916,
- (2) the United States or an officer or agency of the United States, or
- (3) otherwise ordered by the Court,

all subpoenas shall be served by a person who is not a party or otherwise interested in the proceeding and is not less than eighteen years of age. Proof of service by such person shall be made as provided for proof of service for summons and complaint in FRBP 7004(a). The person serving the subpoena shall make proof of service thereof to the Court promptly and in any event within the time during which the person served must respond to the subpoena. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person and by tendering to the party summoned the fee for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States or an officer or agency thereof, fees and mileage need not be tendered. Mileage shall be computed and tendered even though the witness to be subpoenaed lives within the city limits. The Marshal, deputy marshal,

or any other person serving subpoenas shall do so only in strict compliance with this Local Bankruptcy Rule, except that a party authorized to proceed *in forma pauperis* need not tender witness and mileage fees.

(D) ***Subpoenas to Officials***: Without permission of the Court first obtained, no subpoena shall be issued for the attendance at any hearing, trial or deposition of (1) the Governor, Lieutenant Governor, or Attorney General of any State; (2) the Judge of any court; (3) the President or Vice President of the United States; (4) any member of the President's Cabinet; (5) any Ambassador or Consul; (6) any member of the United States Congress; or (7) any military officer holding the rank of Admiral or General.

(E) ***Subpoena Duces Tecum***: Whenever a subpoena *duces tecum* has been directed to any person to produce any books, papers, documents or tangible things to any court and to attend and give testimony at the time scheduled for the trial, taking of depositions or other hearing, the person requested therein to produce, or whenever all parties agree, an alternate, shall produce such items to the Clerk on or before 9:00 a.m. on the day designated, or prior thereto if ordered by the Court, to enable counsel to review the same prior to commencement of the trial or the hearing. Provided, however, if a party has good reason not to produce and surrender custody of same to the Clerk, that party shall so advise the Court in writing promptly upon receipt of the subpoena to enable the Court to rule on the objection. Counsel are required to promptly inspect said items so as to enable the trial to proceed promptly.

The provisions hereof are not intended in any way to change or modify the provisions of FRBP 7026 or 9016 or any other applicable Federal Rule of Bankruptcy Procedure or Federal Rule of Civil Procedure, but to supplement the provisions of FRBP 9016.

(F) ***Timely Requests for Subpoenas***: All requests for the issuance of subpoenas for the attendance of witnesses at hearings or trials shall be filed with the Clerk not later than fourteen days before the date upon which the witness will be directed to appear. If the request is made within fourteen days prior to the date of the trial or hearing, it may be issued by the Clerk but no continuance will be granted if said witness fails to appear even though served.

(G) ***Deposition Subpoenas***: Proof of service of a notice to take depositions as provided in Rules 30(a) and 31(a), FRCP, constitutes sufficient authorization for the issuance of a subpoena by the Clerk for the district in which the deposition is to be taken for the attendance of persons named or described therein. The subpoena may command the person to whom it is directed to produce designated books, papers, documents or tangible things which constitute or contain evidence relating to any of the matters within the scope of the examination permitted by Rule 26(b), FRCP, but in that event the subpoena will be subject to the provisions of subdivision (b) of Rule 30 and subdivision (b) of Rule 45, FRCP. No subpoena for the taking of depositions shall be issued by the Clerk unless there be exhibited to the Clerk a copy of the notice to take deposition together with a statement of the date and manner of service and of the names of the persons served, certified by the person who made service. Rule 45(d)(1), FRCP.

(H) ***Place of Taking Depositions***: The Clerk shall issue a subpoena upon request, or an attorney may issue a subpoena in accordance with subdivision (A) of this Rule for FRBP 2004

examinations or for taking a deposition requiring the appearance of any party or witness in any city or county within the division of the district wherein the party or witness resides or is employed or transacts business, or in any city contiguous to any such county or city, without prior order of the Court; provided, however, that no such subpoena shall direct any party or witness who may reside in either Accomack or Northampton Counties to appear in any other city or county, nor may any party or witness residing in any other county or city be required to appear in Accomack or Northampton Counties, unless said party or witness is employed or transacts business in the city or county wherein the deposition is to be taken, or unless otherwise ordered by the Court. Contiguous cities or counties shall be considered as such even though separated by water but only when located within the particular division of the district. The right is reserved to any party or witness directed to attend a deposition in any contiguous city to insist that said deposition be taken within the city (or county) provided by the Federal Rules of Civil Procedure upon a showing of inconvenience of travel, or infirmities of body, or age.

(I) ***Subpoenas in Blank***: Whenever there is a question as to whether or not a subpoena in blank should be issued by the Clerk, the request shall be referred to a Judge of this Court for a final determination. Before the Clerk may issue a subpoena in blank, the Clerk shall determine the actual pendency of the action and the date and time set for hearing or trial. Except for good cause shown, a subpoena returnable in one division will not be issued out of another division. Blank subpoenas shall recite the title and number of the case and shall be complete in every detail except the name and address of the witness. Returns of service shall be made promptly and filed with the Clerk. All service shall be made strictly in accordance with these Local Bankruptcy Rules.

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### RULE 9017-1 EVIDENCE

(A) ***Presence of Witnesses***: Any counsel desiring to ascertain the presence of witnesses summoned for any particular case shall, before the opening of Court, furnish the Clerk with a list of the names of such witnesses.

(B) ***Qualifications of Experts***: Unless the qualifications of an expert witness, including any party litigant, are admitted, a duplicate written statement of such qualifications will be submitted on the morning of trial. As to experts who are expected to appear frequently, a statement of their qualifications may be filed with the Clerk in each of the divisions of the Court for use at trial. When so filed, the Clerk will maintain the statement in a file kept for that purpose. Counsel desiring to make use of the statement will be responsible for obtaining the same from the Clerk's Office.

(C) ***Hypothetical Questions***: [Repealed]

(D) ***Physical Examination of Litigant***: No doctor or other expert will be permitted to testify as to the nature and extent of the injuries to any litigant unless said expert has previously examined or interviewed such person, or unless such testimony is to be based on hypothetical questions. This Local Bankruptcy Rule is not intended to limit an expert, having previously examined the party, from properly demonstrating any of the injuries of a party.

**Comments**

9017-1(C) This paragraph of LBR 9017-1 is repealed since it was felt that the paragraph no longer is needed. [Change effective 2/1/00.]

**RULE 9019-1 SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION**

Rule 83.6, Settlement and Alternative Dispute Resolution, Local Rules of Practice of the United States District Court for the Eastern District of Virginia, applies in adversary proceedings before the Court. For purposes of the Settlement and Alternative Dispute Resolution provisions set out at Rule 83.6, references to: the “court” are to the bankruptcy court; “judge” are to bankruptcy judges assigned to the case; and “Chief Judge” are to the Chief Judge of the District Court.

**Comments**

LBR 9019-1 cross references Rule 83.6 of the Local Rules of Practice of the United States District Court for the Eastern District of Virginia, which makes that rule applicable to adversary proceedings in cases before the Court. [New rule effective 3/1/01.]

**RULE 9022-1 COURT ORDERS**

(A) **Identification of Attorney Filing Proposed Order:** On the first page of each proposed order filed with the Court, the attorney filing the same shall be identified by name, State Bar number, complete mailing address, telephone number and the name of the party whom the attorney represents.

(B) **List, Copies and Envelopes:** With each proposed order:

(1) when submitted, as provided for by an electronic means established by the Court, the order proponent shall file a list of parties, with mailing addresses indicated, who are to receive notice of entry of the same and shall comply with all other requirements set forth therein; or

(2) except as the presiding judge in a case otherwise may direct, when submitted by conventional means, the order proponent shall file a list of parties, with mailing addresses indicated, who are to receive notice of entry of the same and, in addition, shall also file:

(a) one copy of the proposed order, and

(b) for other than the United States Trustee, or standing chapter 13 trustee, a stamped envelope bearing the mailing address of the party.

(C) **Endorsement:** With all proposed orders, the proponent shall file either:

(1) ***Certification of Endorsement by All Parties***: A certification that the proposed order or proposed consent order has been endorsed by all necessary parties, or

(2) ***Proof of Service***: A certification that the proposed order has been served upon all necessary parties and indicating upon whom served and the date and manner of such service.

(D) ***Form and Content***: Any proposed order shall be sufficient in description to stand alone without reference to any motion, pleading or other paper (except for exhibits attached to the order itself). Orders authorizing the sale of real estate or otherwise affecting title to real estate (e.g., abandonments, avoidance of transfers, avoidance or imposition of liens, or adjudication of lien property) shall contain a legal description sufficient to pass title. Orders for sale of property of the estate or any interest therein shall state the identity of the purchaser and the price to be paid unless sale is to be at public auction, in which event the order shall state the date, time, and place of the auction.

(E) ***Consent Orders***: All proposed consent orders shall meet the requirements in (A), (B), (C), and (D) of this Local Bankruptcy Rule.

(F) ***Order After Trial, Hearing, or Other Disposition of the Matter***: Unless the Court specifies otherwise, the prevailing party shall, in addition to the requirements in (A), (B), (C) and (D) of this Local Bankruptcy Rule, prepare a proposed order and file the same with the Court within ten (10) days after the conclusion of the trial, hearing, or other disposition of the matter at issue. If no order is filed within the required period, the Clerk’s Office may issue a Notice of Failure to Prosecute. If an order is still not filed in response to that notice, the Clerk’s Office may dismiss the original pleading or other paper without further notice.

#### **Comments**

9022-1(C)(1) & 9022-1(E) Minor changes have been made to include new language concerning consent orders.

9022-1(F) This language is added to clearly state the interest in seeing that supposedly resolved items are properly closed out.

Parties need to submit a stamped envelope for panel trustees.

[Changes effective 1/1/97]

9022-1(D) Since the need for an order affecting title to real estate to contain a proper legal description is not limited to orders approving sale of real estate or any interest therein, the requirement has been placed at LBR 9022-1. A cross-reference has been added to LBR 6004-1 as well to remind the practitioner of the requirement that orders approving the sale of real estate or any interest therein, like all orders, must stand alone without reference to external documents, e.g., the order should not purport to approve the sale of the real estate or any interest therein “in accordance with the terms of the contract attached to the motion” but

should state the essential terms of the sale, e.g., “to John and Joanna Doe for the price of \$173,000.” [Changes effective 3/1/01.]

9022-1(B) These technical changes are necessary to conform this subdivision of the LBR to the process of filing proposed orders as provided for by an electronic means established by the Court. [Change effective 7/1/02.]

## RULE 9070-1 EXHIBITS

(A) ***Numerous Exhibits:*** Whenever the exhibits in any case, to be presented by either party, exceed five (5), the party intending to offer such exhibits shall place them in a binder, properly tabbed, numbered and indexed, unless otherwise ordered by the Court.

(B) ***Listing and Marking Exhibits:*** All exhibits, except such as are prepared in open court or by expert witnesses, must be listed in the final pretrial order in any adversary proceeding and shall be marked by the proponent thereof, in the manner specified by the Clerk, prior to the commencement of the trial unless the Court otherwise directs. Such exhibits, unless too large, shall be seen by opposing counsel at or before the final pretrial conference. At any final pretrial conference, the Court may rule upon the admissibility of any exhibit or reserve ruling thereon. Exhibits agreed upon shall be admitted in evidence; all others shall be considered as numbered and marked for identification.

(C) ***Number of Copies:*** An original and two copies of both the exhibits and the Exhibit List should be filed with the Court by the date set forth in the pretrial order. Sufficient copies should be made available for each opposing counsel.

(D) ***Custody and Disposition of Models and Exhibits***

(1) ***Custody:*** After being marked for identification, exhibits of a documentary nature offered or admitted into evidence in any cause pending or tried in this Court shall be placed in the custody of the Clerk unless otherwise ordered by the Court. All other exhibits, models, and material not offered and admitted into evidence shall be retained in custody of the attorney or party producing same at trial, unless otherwise directed by the Court.

(2) ***Removal:*** Whenever any models, diagrams, exhibits or material have been placed in custody of the Clerk for introduction into evidence, and same are not admitted or marked for identification, such articles shall be removed by the party who filed them with the Clerk, unless otherwise directed by the Court, immediately following the conclusion of the trial or settlement of the case.

(E) ***Disposition of Exhibits:*** All exhibits, models, diagrams, depositions, transcripts, briefs, tables, charts or other items or material or things, introduced, tendered or marked in the trial of a

matter or filed with or delivered to the Clerk in anticipation of their introduction into evidence or for use at trial, shall be withdrawn by the parties to the litigation or their counsel within thirty days after the judgment and the time for appeal or motion for a rehearing or further hearing shall have passed. If such items, material or things are not so removed within the time stated, the Clerk may forward them to counsel or the party entitled thereto, or shall destroy or make such other disposition or use of them as the Clerk may deem appropriate.

**Comments**

9070-1(A) The threshold number of exhibits for binding was reduced from fifteen to five.

9070-1(C) Change to note information already included in the Instructions for Preparing Exhibit List and Pre-Marking Exhibits.

# EXHIBITS

The bankruptcy forms included in the following exhibits are available at the Court's Internet web site <http://www.vaeb.uscourts.gov> and can be accessed by clicking the "Bankruptcy Forms" button on the Court's Internet home page. The forms are in Adobe Acrobat format.

UNITED STATES BANKRUPTCY COURT  
\_\_\_\_\_ DISTRICT OF VIRGINIA  
\_\_\_\_\_ Division

CHAPTER 13 PLAN  
AND RELATED MOTIONS

Name of Debtor(s):

Case No:

This plan, dated \_\_\_\_\_, is:

- the *first* Chapter 13 plan filed in this case.
- a modified plan, which replaces the plan dated \_\_\_\_\_

Date and Time of Modified Plan Confirmation Hearing:

Place of Modified Plan Confirmation Hearing:

The plan provisions modified by this filing are:

Creditors affected by this modification are:

**NOTICE: YOUR RIGHTS WILL BE AFFECTED. You should read these papers carefully. If you oppose any provision of this plan, or if you oppose any included motions to (i) value collateral, (ii) avoid liens, or (iii) assume or reject unexpired leases or executory contracts, you MUST file a timely written objection.**

**This plan may be confirmed and become binding, and the included motions in paragraphs 3, 6, and 7 to value collateral, avoid liens, and assume or reject unexpired leases or executory contracts may be granted, without further notice or hearing unless a written objection is filed not later than ten (10) days prior to the date set for the confirmation hearing and the objecting party appears at the confirmation hearing.**

The debtor(s)' schedules list assets and liabilities as follows:

Total Assets:  
 Total Non-Priority Unsecured Debt:  
 Total Priority Debt:  
 Total Secured Debt:

1. **Funding of Plan.** The debtor(s) propose to pay the trustee the sum of \$\_\_\_\_\_ per \_\_\_\_\_ for \_\_\_\_\_ months. Other payments to the Trustee are as follows: \_\_\_\_\_ . The total amount to be paid into the plan is \$\_\_\_\_\_ .
2. **Priority Creditors.** The Trustee shall pay allowed priority claims in full unless the creditor agrees otherwise.
  - A. **Administrative Claims under 11 U.S.C. § 1326.**
    1. The Trustee will be paid 10% of all sums disbursed except for funds returned to the debtor(s).
    2. Debtor(s)' attorney will be paid \$\_\_\_\_\_ balance due of the total fee of \$\_\_\_\_\_ concurrently with or prior to the payments to remaining creditors.
  - B. **Claims under 11 U.S.C. §507.**

The following priority creditors will be paid by deferred cash payments pro rata with other priority creditors or in monthly installments as below, except that allowed claims pursuant to 11 U.S.C. § 507(a)(1) will be paid prior to other priority creditors but concurrently with administrative claims above:

<u>Creditor</u>	<u>Type of Priority</u>	<u>Estimated Claim</u>	<u>Payment and Term</u>
-----------------	-------------------------	------------------------	-------------------------

**3. Secured Creditors and Motions to Value Collateral.**

This paragraph provides for claims of creditors who hold debts that are secured by real or personal property of the debtor(s) but (a) are not secured solely by the debtor(s)' principal residence and (b) do not have a remaining term longer than the length of this plan.

**A. Claims to Which § 506 Valuation is NOT Applicable.** Claims listed in this subsection consist of debts secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor for which the debt was incurred within 910 days of the filing of the bankruptcy petition, or if the collateral for the debt is any other thing of value, the debt was incurred within 1 year of filing. See § 1325(a)(5). After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the amount of the claim in column (d) with interest at the rate stated in column (e). **Upon confirmation of the plan, the interest rate shown below will be binding unless a timely written objection to confirmation is filed and sustained by the Court.** Payments distributed by the Trustee are subject to the availability of funds.

(a) <u>Creditor</u>	(b) <u>Collateral</u>	(c) <u>Purchase Date</u>	(d) <u>Est Claim Amt</u>	(e) <u>Interest Rate</u>	(f) <u>Monthly Paymt &amp; Estimate Term**</u>
------------------------	--------------------------	-----------------------------	-----------------------------	-----------------------------	---

**B. Claims to Which §506 Valuation is Applicable.** Claims listed in this subsection consist of any claims secured by personal property not described in Plan paragraph 3.A. After confirmation of the plan, the Trustee will pay to the holder of each allowed secured claim the monthly payment in column (f) based upon the replacement value as stated in column (d) or the amount of the claim, whichever is less, with interest at the rate stated in column (e). The portion of any allowed claim that exceeds the value indicated below will be treated as an unsecured claim. **Upon confirmation of the plan, the valuation and interest rate shown below will be binding unless a timely written objection to confirmation is filed and sustained by the Court.** Payments distributed by the Trustee are subject to the availability of funds.

(a)	(b)	(c)	(d)	(e)	(f)
<u>Creditor</u>	<u>Collateral</u>	<u>Purchase Date</u>	<u>Replacement Value</u>	<u>Interest Rate</u>	<u>Monthly Paymt &amp; Estimate Term**</u>

**\*\* THE MONTHLY PAYMENT STATED HERE SHALL BE THE ADEQUATE PROTECTION PAYMENTS PURSUANT TO 1326(a)(1)(C) TO THESE CREDITORS UNLESS OTHERWISE PROVIDED IN PARAGRAPH 11 OR BY SEPARATE ORDER OF THE COURT.**

**C. Collateral to be surrendered.** Upon confirmation of the plan, or before, the debtor will surrender his or her interest in the collateral securing the claims of the following creditors in satisfaction of the secured portion of such creditors' allowed claims. To the extent that the collateral does not satisfy the claim, any timely filed deficiency claim to which the creditor is entitled shall be paid as a non-priority unsecured claim. The order confirming the plan shall have the effect of terminating the automatic stay as to the collateral surrendered.

<u>Creditor</u>	<u>Collateral Description</u>	<u>Estimated Total Claim</u>	<u>Full Satisfaction (Y/N)</u>
-----------------	-------------------------------	------------------------------	--------------------------------

**4. Unsecured Claims.**

**A. Not separately classified.** Allowed non-priority unsecured claims shall be paid pro rata from any distribution remaining after disbursement to allowed secured and priority claims. Estimated distribution is approximately \_\_\_\_ %. If this case were liquidated under Chapter 7, the debtor(s) estimate unsecured creditors would receive a dividend of approximately \_\_\_\_ %.

**B. Separately classified unsecured claims.**

<u>Creditor</u>	<u>Basis for Classification</u>	<u>Treatment</u>
-----------------	---------------------------------	------------------

**5. Long Term Debts and Claims Secured by the Debtor(s)' Primary Residence.**

Creditors listed below are either secured by the debtor(s)' principal residence or hold a debt the term of which extends beyond the term of this plan.

**A. Debtor(s) to pay claim directly.** The creditors listed below will be paid by the debtor(s) pursuant to the contract without modification, except that arrearages, if any,

will be paid by the Trustee either pro rata with other secured claims or on a fixed monthly basis as indicated below.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Interest Rate</u>	<u>Estimated Cure Period</u>	<u>Monthly Arrearage Payment</u>
-----------------	-------------------	---------------------------------	----------------------------	----------------------	------------------------------	----------------------------------

- B. Trustee to pay the contract payments and the arrearages.** The creditors listed below will be paid by the Trustee the regular contract monthly payments during the term of this plan. The arrearage claims, if any, will be cured by the Trustee by payments made either pro rata with other secured claims or by fixed monthly payments as indicated below.

<u>Creditor</u>	<u>Collateral</u>	<u>Regular Contract Payment</u>	<u>Estimated Arrearage</u>	<u>Interest Rate</u>	<u>Term for Arrearage</u>	<u>Monthly payment</u>
-----------------	-------------------	---------------------------------	----------------------------	----------------------	---------------------------	------------------------

- 6. Executory Contracts and Unexpired Leases.** The debtor(s) move for assumption or rejection of the executory contracts and leases listed below.

- A. Executory contracts and unexpired leases to be rejected.** The debtor(s) reject the following executory contracts.

<u>Creditor</u>	<u>Type of Contract</u>
-----------------	-------------------------

- B. Executory contracts and unexpired leases to be assumed.** The debtor(s) assume the following executory contracts. The debtor agrees to abide by all terms of the agreement. The Trustee will pay the pre-petition arrearages, if any, through payments made pro rata with other priority claims or on a fixed monthly basis as indicated below.

<u>Creditor</u>	<u>Type of Contract</u>	<u>Arrearage</u>	<u>Monthly Payment for arrears</u>	<u>Estimated cure period</u>
-----------------	-------------------------	------------------	------------------------------------	------------------------------

- 7. Motions to Avoid Liens.**

- A. The debtor(s) move to avoid liens pursuant to 11 U.S.C. § 522(f).** The debtor(s) move to avoid the following judicial liens and non-possessory, non-purchase money liens that impair the debtor(s)' exemptions. **Unless a written objection is timely filed with the Court, the Court may grant the debtor(s)' motion and**

**cancel the creditor's lien.** If an objection is filed, the Court will hear evidence and rule on the motion at the confirmation hearing.

<u>Creditor</u>	<u>Collateral</u>	<u>Exemption Basis</u>	<u>Exemption amount</u>	<u>Value of Collateral</u>
-----------------	-------------------	------------------------	-------------------------	----------------------------

- B. Avoidance of security interests or liens on grounds other than 11 U.S.C. § 522(f).** The debtor(s) have filed or will file and serve separate pleadings to avoid the following liens or security interests. The creditor should review the notice or summons accompanying such pleadings as to the requirements for opposing such relief. The listing here is for information purposes only.

<u>Creditor</u>	<u>Type of Lien</u>	<u>Description of Collateral</u>	<u>Basis for Avoidance</u>
-----------------	---------------------	----------------------------------	----------------------------

**8. Treatment of Claims.**

- All creditors must timely file a proof of claim to receive payment from the Trustee.
- If a claim is scheduled as unsecured and the creditor files a claim alleging the claim is secured but does not timely object to confirmation of the plan, the creditor may be treated as unsecured for purposes of distribution under the plan. This paragraph does not limit the right of the creditor to enforce its lien, to the extent not avoided or provided for in this case, after the debtor(s) receive a discharge.
- If a claim is listed in the plan as secured and the creditor files a proof of claim alleging the claim is unsecured, the creditor will be treated as unsecured for purposes of distribution under the plan.

**9. Vesting of Property of the Estate.** Property of the estate shall revert in the debtor(s) upon confirmation of the plan. Notwithstanding such vesting, the debtor(s) may not sell, refinance, or encumber real property without approval of the court.

**10. Incurrence of indebtedness.** During the term of the plan, the debtor(s) shall not voluntarily incur additional indebtedness in an amount exceeding \$5,000 without approval of the court.

**11. Other provisions of this plan:**

Signatures:

Dated: \_\_\_\_\_

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Debtor's Attorney

\_\_\_\_\_  
Joint Debtor

Exhibits:      **Copy of Debtor(s)' Budget (Schedules I and J);  
Matrix of Parties Served with plan**

Certificate of Service

I certify that on \_\_\_\_\_, I mailed a copy of the foregoing to the creditors and parties in interest on the attached Service List.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Address

\_\_\_\_\_  
Telephone No.

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF VIRGINIA  
Division

In re:

Case No. \_\_\_\_\_

Chapter 13

Debtor(s)

**SPECIAL NOTICE TO SECURED CREDITOR**

To: \_\_\_\_\_, Attn: \_\_\_\_\_  
*Name of creditor*

\_\_\_\_\_  
*Description of collateral*

1. The attached chapter 13 plan filed by the debtor(s) proposes (*check one*):

- To value your collateral. **See Section 3 of the plan.** Your lien will be limited to the value of the collateral, and any amount you are owed above the value of the collateral will be treated as an unsecured claim.
- To cancel or reduce a judgment lien or a non-purchase money, non-possessory security interest you hold. **See Section 7 of the plan.** All or a portion of the amount you are owed will be treated as an unsecured claim.

2. ***You should read the attached plan carefully for the details of how your claim is treated.*** The plan may be confirmed, and the proposed relief granted, unless you file and serve a written objection by the date specified and appear at the confirmation hearing. A copy of the objection must be served on the debtor(s), their attorney, and the chapter 13 trustee.

Date objection due: \_\_\_\_\_

Date and time of confirmation hearing: \_\_\_\_\_

Place of confirmation hearing: \_\_\_\_\_

\_\_\_\_\_  
*Name(s) of debtor(s)*

By: \_\_\_\_\_  
*Signature*

Debtor(s)' Attorney

Pro se debtor

\_\_\_\_\_  
*Name of attorney for debtor(s)*

\_\_\_\_\_  
*Address of attorney [or pro se debtor]*

*Tel. #* \_\_\_\_\_

*Fax #* \_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that true copies of the foregoing Notice and attached Chapter 13 Plan and Related Motions were served upon the creditor noted above by

- (    ) first class mail in conformity with the requirements of Rule 7004(b), Fed.R.Bankr.P; or
- (    ) certified mail in conformity with the requirements of Rule 7004(h), Fed.R.Bankr.P

on this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
*Signature of attorney for debtor(s)*

UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

In re: )  
)  
Filing, Signing, Retaining and ) Standing Order No. 06-4  
Verification of Pleadings and )  
Papers in the Case Management/ )  
Electronic Case Filing (CM/ECF) )  
System )

ORDER ADOPTING CASE MANAGEMENT/ ELECTRONIC CASE FILING PROCEDURES

**[Rescinded Effective 3/17/08]**

Administrative Procedures for Filing, Signing, Retaining  
and Verification of Pleadings and Papers in the  
Case Management/Electronic Case Filing (CM/ECF) System

Exhibit to Standing Order No. 06-4  
(VERSION 06/09/06)

DECEMBER 2006

**[Rescinded Effective 3/17/08]**

**EXHIBIT 5****INSTRUCTIONS FOR CREDITOR MATRIX DISKETTE**

Last Revised: May 14, 1999

If using a third party software package (i.e. Best Case Solutions, Specialty, EZ-Filing for Windows, Top Form):

1. Save the creditors to a diskette. Name the file: Creditor.txt.
2. Close your program and open your word processing package.
3. Open the creditor.txt file and check the following:

Single column

Two blank spaces between each creditor

Second line of each creditor must be either a street address number or a P.O. box with the periods (e.g. 200 South Main Street or P.O. Box 241)

Last line of each creditor must be in the format City, State (two-letter abbreviation) Zip (e.g. Alexandria, VA 22314)

No account numbers may be included in creditor information

4. Choose 'Save As' function in your word processing software. In earlier versions of WordPerfect, this is known as 'Text In/Out'. In most software packages, there will be a box that will indicate the format of the document (e.g. Word 5.0 format, WordPerfect 5.1). This box is usually right underneath where you enter in the name of the file. The format for all diskettes should be one of the following (depending on your software): ASCII DOS Text, Plain DOS Text, Text Only. These are the only formats that will be accepted. When you have selected the correct format, save the file.

If you are not using third party software:

1. Open your word processing software and enter in the creditor information making sure that there is:

One column of information only

Two blank spaces between each creditor

Second line of each creditor must be either a street address number or a P.O. box with the periods (e.g. 200 South Main Street or P.O. Box 241)

Last line of each creditor must be in the format City, State (two-letter abbreviation) Zip (e.g. Alexandria, VA 22314)

No account numbers may be included in creditor information

2. Choose 'Save As' function in your word processing software. In earlier versions of WordPerfect, this is known as 'Text In/Out'. In most software packages, there will be a box that will indicate the format of the document (e.g. Word 5.0 format, WordPerfect 5.1). This

box is usually right underneath where you enter in the name of the file. The format for all diskettes should be one of the following (depending on your software): ASCII DOS Text, Plain DOS Text, Text Only. These are the only formats that will be accepted. When you have selected the correct format, save the file.

**EXHIBIT 6**

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
Division**

In re:

Debtor(s)

Case No.

Plaintiff(s)

Chapter

v.

Defendant(s)

Adversary No.

**FINANCIAL INTEREST DISCLOSURE STATEMENT**

Pursuant to Federal Rule of Bankruptcy Procedure 7007.1 and Local Bankruptcy Rule 7007-1 of the Eastern District of Virginia and to enable the Judges to evaluate possible disqualification or recusal, the undersigned counsel for

\_\_\_\_\_

in the above captioned action, certifies that the following is a (are) corporation(s), other than the debtor or a governmental unit, that directly or indirectly own(s) 10% or more of any class of the corporation's(s') equity interests, or states that there are no entities to report under FRBP 7007.1:

\_\_\_\_\_

None [Check if applicable]

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Attorney or Litigant  
Counsel for \_\_\_\_\_

**Note: This form is to be filed with the Clerk of the Court. If the proceeding is not assigned to the Electronic Case Filing System, the statement shall be filed in duplicate; otherwise, the statement shall be filed consistent with the Electronic Case Filing System requirements approved by the Court.**

## EXHIBIT 7

**MOTIONS DAY PROCEDURE FOR ALEXANDRIA DIVISION**

*Note: The following procedure is applicable only in the Alexandria Division of the United States Bankruptcy Court for the Eastern District of Virginia, and only with respect to motions, other than relief from stay motions, that can be heard in 30 minutes or less. In the Norfolk, Newport News, and Richmond Divisions, hearing dates for motions must in all instances be obtained from the Court in accordance with Local Bankruptcy Rule 9013-1(F).*

**MOTIONS DATES**

- \* Motions dates for each judge will be posted in the Clerk's office up to three (3) months in advance but should be verified by counsel or an unrepresented party prior to sending out notice in order to ensure that the date remains available. *A judge may require that specified types of matters be returnable to a specified time on a motions day, and counsel or parties setting matters for hearing are responsible for making the motion returnable to the correct time.* The motion must be set on the motions day for the judge assigned to the case and may not be set on the calendar of another judge except with the express authorization of the assigned judge. If for any reason a problem arises with a hearing date after the date has been posted, the Clerk will notify counsel with a new date, and the attorney or party filing the motion will be responsible for renoticing the matter.
- \* Motions dates may be used for motions, objections, and applications that will take less than one-half hour to hear. There will be at least one (1) such day a month. The following matters may **not** be set on a motions day unless specifically authorized by the Court: matters that will take over one-half hour, motions for relief from the automatic stay, confirmation hearings, pretrial conferences, and expedited or emergency hearings.
- \* *If a judge has a separate Chapter 13 docket, all motions, objections, and applications arising in a Chapter 13 case must be set on that docket and not on the general motions docket.* Objections to confirmation of the **original** plan filed in a Chapter 13 case **must** be noticed for the date and time of the confirmation hearing as set forth in the 341 notice or separate notice of confirmation hearing given by the Clerk. Objections to confirmation of a modified Chapter 13 plan may be set on any Chapter 13 motions day that provides proper notice.
- \* The notice of hearing, motion, objection, or application must be filed with the Court, *in an original and one copy*, together with an orange motions day cover sheet no later than **15 days** prior to the hearing date. The notice of hearing and the motion, objection, or application must be served upon all parties entitled to notice in accordance with the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules. If such rules do not specify a time period for service, then service must be made no later than 15 days prior to the hearing. There will be **no** exceptions unless shorter notice has been specifically authorized by the

judge to whom the matter is assigned. Any matter not timely noticed will **not** be set on the calendar but will be reassigned by the Clerk to the next available date that complies with the applicable notice requirement, and the counsel or party bringing the matter will be responsible for renoticing it.

- \* Motions to be heard on a motions day must be filed, together with a notice of hearing, in an original and one copy. The copy must be attached to an orange notice of hearing cover sheet (available from the Clerk's office). The copy attached to the orange cover sheet need not contain supporting memoranda or exhibits. ***The orange cover sheet is not a substitute for any required notice of hearing.*** The orange cover sheet will alert the intake deputy to deliver the motion and notice of hearing to the courtroom deputy. ***If a copy of the motion and notice is not filed with an orange cover sheet, the matter will not be placed on the motions docket and will have to be reset.***

### MOTIONS REQUIRING MORE THAN ONE-HALF HOUR

- \* For those matters that will take over one-half hour, the counsel or party bringing the motion, objection, or application must request a hearing date from the Clerk and must certify to the Court the moving party's estimate of the time required to hear the matter. A certification of time estimate cover sheet is obtainable from the Clerk's office and is the preferred form for requesting a hearing date.
- \* If a matter is set for a motions day on the good faith belief that it will take less than one-half hour, but it subsequently becomes apparent that the matter will take more than one-half hour, counsel may request a date and time from the Clerk for hearing the matter, provided notice of the rescheduled hearing can be and is given to all affected parties at least **ten days** prior to the scheduled hearing. Otherwise, the moving party or counsel will be required to appear in Court to schedule the matter for final hearing.

### CONSENT ORDERS

- \* A courtroom deputy will be available to take all **fully-endorsed** consent orders and stipulations, including consent orders for a continuance to another scheduled motions day, between 8:45 and 9:15 a.m. on the day that the hearing is scheduled. An order will **not** be treated as a "consent" order merely because no opposition has been filed to the motion, objection, or application.
- \* **If counsel or an unrepresented party, in lieu of personally presenting a consent order to the courtroom deputy, transmits the order by messenger or mail, or presents it at the intake counter, the counsel or party tendering the order is responsible for verifying with the courtroom deputy that she or he has received it.** Any consent order submitted within two business days of a hearing **must** be accompanied by a yellow expedited handling cover sheet. Failure to comply with these requirements with respect to an order not personally

presented to the courtroom deputy on the morning of the hearing may, in the Court's discretion, result in the motion, objection, or application being dismissed for failure to prosecute.

- \* Any consent order continuing a relief from stay hearing must contain language continuing the automatic stay in full force and effect pending a ruling by the Court at such continued hearing. Additionally, if a consent order in a relief from stay motion grants relief from the stay, and such order has not been noticed under Bankruptcy Rule 4001(d), a certification must be attached stating either that the order provides no greater or different relief than requested in the motion or that Bankruptcy Rule 4001(d) does not require notice.

### COUNSEL HAVING MATTERS BEFORE MORE THAN ONE JUDGE

- Counsel or an unrepresented party having matters before more than one judge on a motions day **must advise the courtroom deputy that the counsel or party is in another courtroom and must provide an estimated time when such counsel or party will be available.** If counsel or a party is in another courtroom when a particular matter is called, and has **not** checked in, the Court may summarily dismiss or dispose of the matter or may hold the offending counsel or party in contempt.

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