

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

PUBLIC NOTICE

**Changes and Modifications to Local Bankruptcy Rules
United States Bankruptcy Court for the Eastern District of Virginia,
Effective – (A) August 1, 2003, and (B) December 1, 2003**

The following is a summary of the Court-approved revisions to the Local Bankruptcy Rules (LBR(s)) for the United States Bankruptcy Court for the Eastern District of Virginia, effective on the dates indicated below:

(A) Local Bankruptcy Rules Effective August 1, 2003

1. *LBR 2003-1 Meeting of Creditors & Equity Security Holders – (A) Policy.* LBR 2003-1(A), which allows for a limited second 341 meeting date option, is repealed to conform the Court's practice to that of the other courts in United States Trustee Region 4.
2. *LBR 2003-1 Meeting of Creditors & Equity Security Holders – (B) Dismissal for Failure to Appear – (4) Rescheduled Meeting of Creditors; Notice.* LBR 2003-1(B)(4) clarifies the period of time in which the attorney for the debtor(s), or the debtor(s), if *pro se*, must serve notice of a rescheduled meeting of creditors on all creditors and other parties in interest.
3. *LBR 2003-1 Meeting of Creditors & Equity Security Holders – (C) Rescheduled Meeting of Creditors; Notice.* LBR 2003-1(C) has been amended by deleting the first sentence of the rule as being inconsistent with the statutory responsibilities of the United States Trustee. The rule also clarifies that only the United States Trustee may permit the rescheduling of a meeting of creditors.
4. *LBR 4001(a)-1 Relief from Stay – (D) Contents of Motion for Relief from Stay.* LBR 4001(a)-1(D) is new. The rule requires the inclusion of relevant information so that all interested parties can formulate a position on the motion prior to the preliminary hearing. The requirements of LBR 9022-1, regarding court orders, apply with respect to motions for relief from the automatic stay.
5. *LBR 9014-1 Discovery in Contested Matters, Relief from Stay Matters and Whether Hearing is Evidentiary or Preliminary – (A) Discovery in Contested Matters and Relief from Stay Matters.* LBR 9014-1(A) incorporates the text of the current rule immediately before August 1, 2003.
6. *LBR 9014-1 Discovery in Contested Matters, Relief from Stay Matters and Whether Hearing is Evidentiary or Preliminary – (B) Whether Hearing is Evidentiary or Preliminary.* This provision is new and is intended to conform the Court's practice to new FRBP 9014(e) regarding whether a hearing will be evidentiary or preliminary to avoid unnecessary expense and inconvenience.
7. *Exhibit 1 to LBRs – Chapter 13 Plan and Related Motions – Section B-2.b. Priority Creditors Under 11 U.S.C. § 1322(a)(2)* has been revised to require a good faith disclosure of the status of the claim.
8. *Exhibit 1 to LBRs – Chapter 13 Plan and Related Motions – Section B-6.c. Lien Avoidance* has been revised to provide the debtor's attorney with additional time to file and serve lien avoidance pleadings.
9. *Exhibit 1 to LBRs – Chapter 13 Plan and Related Motions – Section E Proof of Service* has been revised to effect a technical change to conform the service provision to current procedures.

10. *Exhibit 2 to LBRs – Notice of Chapter 13 Plan and Related Motions – Proof of Service* has been revised to effect a technical change to conform the service provision to current procedures.

(B) Local Bankruptcy Rules Effective December 1, 2003

On March 27, 2003, the Supreme Court of the United States transmitted several bankruptcy rule changes to Congress. These changes will take effect December 1, 2003, unless Congress enacts legislation to reject, modify or defer the impending changes.

In compliance with the Judicial Conference privacy policy regarding public access to electronic case files and consistent with the impending amendments to Federal Rules of Bankruptcy Procedure 1005, 1007 and 2002, and Bankruptcy Official Forms 1, 3, 5, 6, 7, 8, 9, 10, 16A, 16C and 19,† the Court has amended LBR 1007-1, as follows:

1. *LBR 1007-1 Lists, Schedules and Statements – Lists of Creditors and Statement of Social Security Number – (1) Filing.* Federal Rule of Bankruptcy Procedure 1007(f) requires an individual debtor to “submit a verified statement [‡] that sets out the debtor’s social security number, or states that the debtor does not have a social security number. In a voluntary case, the debtor shall submit the statement with the petition. In an involuntary case, the debtor shall submit the statement within 15 days after the entry of the order for relief.”
(2) Dismissal of Case. In a voluntary case, if the required statement of social security number is not submitted at the time of filing of the voluntary petition, the statement must be filed no later than one (1) business day after the filing of the petition to avoid the Clerk’s entry of an order of dismissal.

In compliance with Federal Rule of Bankruptcy Procedure 7007.1, the Court has amended LBR 7007-1 and Exhibit 6 thereto, as follows:

1. *LBR 7007-1 Financial Disclosure.* 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 to the LBRs as Exhibit 6, this rule no longer is needed.
2. *Exhibit 6 Financial Interest Disclosure Statement.* This exhibit has been modified to conform to the requirements of new FRBP 7007.1.

Date: July 11, 2003

William C. Redden
Clerk of Court

Attachments

Notes:

†The Administrative Office of the United States Courts (AOUSC) is developing written guidance for the courts on the implementation of these privacy and public access requirements, which will take effect on December 1, 2003. In addition, the AOUSC is developing a new interim release to Bankruptcy CM/ECF Version 2x (Version 2.3). Among other enhancements, this release will automate the redaction of debtors’ social security numbers from the public record. More information on this new interim release will be forthcoming from the Clerk’s Office.

‡ At its June 9-10, 2003, meeting, the Judicial Conference Committee on Rules of Practice and Procedure approved a recommendation made by its Advisory Committee on Bankruptcy Rules to create a new Official Form 21, *Statement of Social Security Number*. This recommendation will be presented to the Judicial Conference for adoption when the latter meets in September 2003.

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA

In re:

)
)
) Standing Order No. 03-4
)
Revision of Local Rules)
)

ORDER ADOPTING REVISION OF LOCAL RULES

After giving appropriate public notice and an opportunity for comment, pursuant to delegation of authority from the United States District Court, the accompanying Local Rules and exhibits thereto are hereby adopted.

These Rules shall take effect on the first day of August 2003, and shall govern procedures in all cases and proceedings pending on that date or filed on or after that date. The prior Local Rules and exhibits thereto are rescinded effective August 1, 2003.

Dated: July 11, 2003

/s/ Douglas O. Tice, Jr.
DOUGLAS O. TICE, JR.
CHIEF JUDGE

/s/ David H. Adams
DAVID H. ADAMS
JUDGE

/s/ Stephen S. Mitchell
STEPHEN S. MITCHELL
JUDGE

/s/ Stephen C. St. John
STEPHEN C. ST. JOHN
JUDGE

/s/ Robert G. Mayer
ROBERT G. MAYER
JUDGE

**REVISIONS
TO THE
LOCAL BANKRUPTCY RULES**

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



**Effective August 1, 2003
(Ver. 07/03/03)**

TABLE OF CONTENTS

<u>Rule</u>	<u>Page</u>
Rule 2003-1(A) Policy	3
Rule 2003-1(B)(4) Rescheduled Meeting of Creditors; Notice	3
Rule 2003-1(C) Rescheduled Meeting of Creditors	3
Rule 4001(a)-1(D) Contents of Motion for Relief from Stay*	3
Rule 4001(a)-1(E) Filing Requirements	4
Rule 4001(a)(1(F) Service	4
Rule 4001(a)-1(G) Requests for Additional Relief	4
Rule 4001(a)-1(H) Relief from Codebtor Stay in Chapter 13 Cases	4
Rule 9014-1(A) Discovery in Contested Matters and Relief from Stay	4
Rule 9014-1(B) Whether Hearing is Evidentiary or Preliminary*	4
Exhibit 1 to Local Bankruptcy Rules, Chapter 13 Plan and Related Motions	
• Section B-2.b. Priority Creditors Under 11 U.S.C. § 1322(a)(2)	5
• Section B-6.c. Avoidance of other Security Interest and/or Lien	5
• Section E – Proof of Service	5
Exhibit 2 to Local Bankruptcy Rules, Notice of Chapter 13 Plan and Related Motions	
• Proof of Service	5

Note: *New Rule

RULE 2003-1 MEETING OF CREDITORS & EQUITY SECURITY HOLDERS

(A) *Policy*: ~~[Repealed] At the time of the original filing, the debtor's counsel may request information concerning the scheduled date and time of the meeting of creditors. If the debtor or debtor's counsel is aware that he or she will be unable to attend at the scheduled date and time, debtor or debtor's counsel may at the time of the original filing request a different date for the meeting of creditors. The Clerk may grant such a request to a date within forty days of filing.~~

(B) *Dismissal for Failure to Appear*:

(4) *Rescheduled Meeting of Creditors; Notice*: ~~If the order dismissing the case is subsequently vacated by the Court, then the attorney for the debtor(s), or if *pro se* the debtor(s), if *pro se*, shall, forthwith within five (5) days after the order is entered, obtain from the judge assigned to the case or the Clerk a new date and time for a rescheduled meeting of creditors, and ~~Within five (5) ten (10) days after~~ of obtaining the a new date; and time give written notice of the for a rescheduled meeting of creditors, the attorney for the debtor(s), or the debtor(s), if *pro se*, shall serve written notice to all creditors and other parties in interest and file proof of service with the Clerk. Notice shall be given in a form approved by the Clerk.~~

(C) *Rescheduled Meeting of Creditors; Notice*: ~~If the United States Trustee agrees before a meeting of creditors to reschedule the meeting at the request of A meeting of creditors may be rescheduled not more than once by the United States Trustee. The attorney for the debtor(s) or if *pro se*, the debtor(s), if *pro se*, then the attorney for the debtor(s) or the debtor(s), if *pro se*, shall forthwith obtain from the United States Trustee, a new the date and time of the for a rescheduled meeting of creditors, from the trustee or United States Trustee and Wwithin ten five (5) days of obtaining a new date and time for a rescheduled meeting of creditors, the attorney for the debtor(s) or the debtor(s), if *pro se*, shall serve give written notice of the rescheduled meeting of creditors to all creditors and other parties in interest. Notice shall be given in a form approved by the Clerk of Court. The attorney for the debtor(s), or if *pro se*, the debtor(s) shall and file proof of such service with the Clerk, within five business days of the original date of the meeting of creditors. Notice shall be given in a form approved by the Clerk.~~

Comments

2003-1(A) This rule has been repealed to conform the Court's practice to that of the other courts in United States Trustee Region 4. [Change effective 8/1/03.]

2003-1(B)(4) This rule clarifies the period of time in which the attorney for the debtor(s), or the debtor(s), if *pro se*, must serve notice of a rescheduled meeting of creditors on all creditors and other parties in interest. [Change effective 8/1/03.]

2003-1(C) The first sentence of the rule has been deleted as being inconsistent with the statutory responsibilities of the United States Trustee. The rule also clarifies that only the United States Trustee may permit the rescheduling of a meeting of creditors.[Change effective 8/1/03.]

The rule also has been amended to conform to the service of notice change made in Rule 2003-1(B)(4). [Change effective 8/1/03.]

RULE 4001(a)-1 RELIEF FROM STAY

(D) *Contents of Motion for Relief from Stay*: The following material, when applicable, must be included in a motion for relief from stay:

(1) A detailed statement of the debt owed to the movant;

- (2) If periodic payments are in arrears, the amount of arrears accrued prepetition and the amount of arrears accrued postpetition;
- (3) A description of the property encumbered;
- (4) A description of the security interest and its perfection;
- (5) A statement of the basis for the relief claimed, such as, a lack of adequate protection or the absence of equity and that the property is not necessary for an effective reorganization. The specific facts constituting cause shall be set forth if a motion is brought for cause;
- (6) If the movant asserts a valuation of the subject property, the motion shall state the amount of the valuation, the date, and the basis therefore (appraisal, bluebook, etc.); and
- (7) The specific nature of the relief from stay that is requested.

~~(D)~~(E) *Filing Requirements:*

~~(E)~~(F) *Service:*

~~(F)~~(G) *Requests for Additional Relief:*

~~(G)~~(H) *Relief from Codebtor Stay in Chapter 13 Cases:*

Comments

4001(a)-1(D) This rule is new. The rule requires the inclusion of relevant information so that interested parties can formulate a position on the motion prior to the preliminary hearing. The requirements of Local Bankruptcy Rule 9022-1, regarding court orders, apply with respect to motions for relief from the automatic stay. [New Rule effective 8/1/03.]

RULE 9014-1 DISCOVERY IN CONTESTED MATTERS, AND RELIEF FROM STAY MATTERS AND WHETHER HEARING IS EVIDENTIARY OR PRELIMINARY

(A) *Discovery in Contested Matters and Relief From Stay Matters:* Unless otherwise ordered by the Court on its own motion or upon motion of a party, the following subdivisions of FRBP 7026 shall not apply in a contested matter or in a relief from stay matter: FRBP 7026(a)(1), 7026(a)(2), 7026(a)(3), 7026(d) and 7026(f).

(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

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.]

**EXHIBIT 1 TO LOCAL BANKRUPTCY RULES
CHAPTER 13 PLAN AND RELATED MOTIONS**

Section B-2. PAYMENTS TO PRIORITY CREDITORS

b. Priority Creditors Under 11 U.S.C. § 1322(a)(2). ~~The following priority creditors will be fully~~ All allowed priority claims will be paid in full by deferred cash payments, unless the holder of such a claim agrees to be treated differently. The known priority claims are as follows:

<u>Creditor</u>	<u>Type of Claim</u>	Balance Due	<u>Estimated Amount Due</u>
-----------------	----------------------	------------------------	-----------------------------

Section B-6. LIEN AVOIDANCE

c. Avoidance of Other Security Interest and/or Lien If the debtor intends to avoid a security interest or judicial lien pursuant to other applicable sections of the United States Bankruptcy Code, then the debtor shall so state below and shall file and serve the necessary pleadings ~~on or before~~ within 90 days after the first date set for the ~~initial~~ meeting of creditors or, if applicable, contemporaneously with the filing of any Modified Chapter 13 Plan and Related Motions.

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

SECTION E – PROOF OF SERVICE

The undersigned hereby certifies that on this date the foregoing Chapter 13 Plan and Related Motions was served upon the standing trustee, all creditors, and other interested parties, as set forth in the attached list of names and addresses, by mailing a complete copy of the plan, including a photocopy of the budget, to each party, by first class mail-, or by electronic means.

**EXHIBIT 2 TO LOCAL BANKRUPTCY RULES
NOTICE OF CHAPTER 13 PLAN AND RELATED MOTIONS**

PROOF OF SERVICE

The undersigned hereby certifies that on this date the foregoing Notice was served upon the standing trustee, all creditors, and other interested parties, as set forth on the attached list of names and addresses, by mailing a complete copy of the Notice to each party, by first class mail-, or by electronic means.