EFFECTIVE
September 30, 2024

REVISED: August 2, 2004
October 17, 2005
August 4, 2008
December 1, 2009
April 16, 2012
August 1, 2013
December 1, 2014
December 1, 2015
December 1, 2016
December 1, 2017
June 9, 2020
December 1, 2021
August 14, 2023
September 30, 2024

LOCAL BANKRUPTCY RULES
FOR THE SOUTHERN DISTRICT OF NEW YORK

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

Rule 1001-1 SHORT TITLE; APPLICABILITY; ADDITIONAL RESOURCES

(a) *Short Title*. These rules shall be known and cited as the "Local Bankruptcy Rules."

(b) *Applicability*. The Local Bankruptcy Rules shall apply to all cases in this district governed by the Bankruptcy Code.

(c) *Additional Resources*. The court's website, https://www.nysb.uscourts.gov, contains the following additional items that practitioners should consult:

(1) Procedural guidelines and policies referenced in these rules and general orders that supplement these Rules and that govern various procedural matters (https://www.nysb.uscourts.gov/content/procedural-guidelines-policies-and-general-orders);

(2) Official and Local Forms referenced in these rules (https://www.nysb.uscourts.gov/forms); and

(3) Judges' individual rules of practice (https://www.nysb.uscourts.gov/chambers-rules-0).

Comment

This rule is derived from Former Local Bankruptcy Rule 1.

Pursuant to Bankruptcy Rule 9029, "[e]ach district court may make and amend rules governing practice and procedure which are not inconsistent with" the Bankruptcy Rules and "[i]n all cases not provided for by rule, the court may regulate its practice in any manner not inconsistent with" the Bankruptcy Rules. The Judges of this district have been authorized to make and amend rules of practice and procedure pursuant to an order of the District Court (Griesa, C.J.), dated December 1, 1994.

Pursuant to the Memorandum of the Administrative Office of the United States Courts, dated November 22, 1994, the appropriate citation form for a local bankruptcy rule, using the uniform numbers, is "LBR." For example, this rule would be cited as "LBR 1001-1." In a brief or other document in which the district prescribing the rule must be identified, this rule would be cited as "S.D.N.Y. LBR 1001-1."

From time to time, the Court may issue standing or general orders to supplement these Local Bankruptcy Rules. In prior years these were available on the Court's website through a link that included a

chronological list of all general orders. However, that list included not only procedural orders of general applicability but also many relatively routine matters, such as orders granting exemptions from the payment of electronic public access fees. In 2023, the website was reconfigured so that any procedural order of general applicability that has not already been incorporated into these Local Bankruptcy Rules will be available on the "Procedural Guidelines and Policies" page on the Court's website. This change should make it easier for parties to identify the general orders that are still in force and the current versions of those orders.

Capitalized terms used in these Local Bankruptcy Rules are defined in Local Bankruptcy Rule 9001-1.

In 2017, a number of grammatical and conforming amendments were made generally to these rules. Among other items, consistency in the use of "must", "shall" and "may" was employed, numbering conventions were employed consistently, references to amendments and repeal of rules was updated and made consistent, and certain other grammatical changes were implemented.

Subsection (b) was amended in 2024 to delete the reference to the former Bankruptcy Act, because there are no more open cases governed by the Bankruptcy Act in this Court.

Subsection (c) was added in 2024 to ensure that parties are aware of other procedural guidelines, orders and chambers rules that may be applicable, and to provide links to those additional resources.

Rule 1002-1 FILING OF PETITION

(a) A petition commencing a case under the Bankruptcy Code may be filed in any office of the Clerk or by electronic means established by the Court.

(b) Notice Regarding Filing of a Chapter 11 or Chapter 15 Petition. To the extent practicable, when a prospective chapter 11 debtor or chapter 15 petitioner anticipates the need to seek orders for immediate relief, counsel for the debtor or petitioner must contact the United States Trustee and the Clerk prior to filing a voluntary petition for relief under chapter 11 or chapter 15 of the Bankruptcy Code, for the purpose of advising the United States Trustee and the Clerk of the anticipated filing of the petition (without disclosing the identity of the debtor or petitioner) and the matters on which the debtor or petitioner intends to seek immediate relief.

Comment

This rule is derived from Former Local Bankruptcy Rule 9(a).

Practitioners should refer to Local Bankruptcy Rule 5005-2, which governs filing by electronic means.

Subsection (b) of this rule was added in 2016. Subsection (b) is designed to alert the Court of impending motions seeking immediate first day relief and to give the United States Trustee time to review proposed, complex orders that may be entered at the conclusion of a "first day hearing," including debtor in possession orders and the like.

Rule 1005-1 DEBTOR'S ADDRESS IN PETITION

The petition must state the debtor's residence or place of business, whichever is applicable, including the street number, street, apartment or suite number, and zip code.

Comment

This rule is derived from Former Local Bankruptcy Rule 50(a). The rule was amended for clarification in December 2017.

Rule 1007-1 DUTY TO FILE A LIST OF CREDITORS AND OTHER ENTITIES WITH THE PETITION UNDER BANKRUPTCY RULE 1007(a)(1)

(a) *Duties Generally*. The list of creditors and other entities required to be filed under Bankruptcy Rule 1007(a)(1), and the creditors' matrix, must include the full name and complete mailing address, including street number or post office box, if any, and zip code. If a debt is owed to an agency or department of the United States, the list and matrix must include the name and address of the particular agency or department to which such debt is owed.

(b) *Attorneys Filing Electronically.*

(1) Debtor's counsel, at the time of filing the petition, must (i) file the list of creditors and other entities required under Bankruptcy Rule 1007(a)(1), and (ii) unless a claims and noticing agent has been retained by the debtor in accordance with Local Bankruptcy Rule 5075-1, upload the creditors' matrix into the CM/ECF creditors' database. Reference should be made to Procedures for Filing Creditors' List, which shall be available on the Court's website (http://www.nysb.uscourts.gov/content/procedures- filing-creditors-list).

(2) When amending a schedule to add a creditor or other entity required to be on the list filed under Bankruptcy Rule 1007(a)(1), debtor's counsel must file the amended schedule on the docket and pay the applicable fee and, unless a claims and noticing agent has been retained by the debtor in accordance with Local Bankruptcy Rule 5075-1, upload the newly-added entity into the CM/ECF creditor database. Additionally, debtor's counsel must serve any newly-added entity with notice of the case and file timely proof of service in accordance with Local Bankruptcy Rule 9078-1.

(3) When amending a schedule to modify an address, the filing of the amended schedule must be accompanied by a letter indicating which entity is the subject of the modification and how the address has been modified

(c) *Debtors Not Represented by an Attorney.*

(1) A debtor not represented by an attorney must, at the time of filing the petition, file a paper document setting forth, for each creditor or other entity required to be on the list filed under Bankruptcy Rule 1007(a), the full name and complete mailing address, including street number or post office box, if any, and zip code. In addition to such paper document, the debtor must provide the list required to be filed under Bankruptcy Rule 1007(a)(1) in an electronic format (such as a USB flash drive). Reference should be made to Procedures for Filing Creditors' List, which shall be available on the Court's website (http://www.nysb.uscourts.gov/content/procedures-filing-creditors-list).

(2) When amending a schedule to add a creditor or modify a creditor's address, the filing of the amended schedule must be accompanied by (i) a letter indicating which creditor is being added or, if modification of a creditor's address is sought, which creditor is the subject of the modification and how the address has been modified, and (ii) payment of the applicable fee. Additionally, the debtor must serve any newly-added creditor or other entity with notice of the case and file timely proof of service in accordance with Local Bankruptcy Rule 9078-1.

Comment

Filing requirements with respect to lists, statements and schedules were governed by General Order M-192 until it was superseded by General Order M-408 in 2010. General Order M-408 was abrogated and replaced by this Local Bankruptcy Rule in 2013. Amendments in 2013 also made mandatory certain procedures which General Order M-408 indicated that the debtor or the debtor's attorney "should" follow. Other clarifying amendments were also made in 2013.

Subsection (c)(1) of this rule was amended in 2016 to remove the reference to "diskette" as an acceptable electronic format, and it was further amended in 2024 to remove the reference to a "CD" as an acceptable electronic format. Diskettes and CDs are no longer supported as acceptable electronic formats.

The Clerk's Office maintains a register of mailing addresses of federal and state governmental units and certain taxing authorities pursuant to Bankruptcy Rule 5003(e).

Rule 1007-2 DEBTOR'S AFFIDAVIT AND PROPOSED CASE CONFERENCE ORDER TO BE FILED IN CHAPTER 11 CASES

(a) *Contents of Affidavit.* A debtor in a chapter 11 case must file an affidavit setting forth:

(1) the nature of the debtor's business and a concise statement of the circumstances leading to the debtor's filing under chapter 11;

(2) if the case originally was commenced under chapter 7 or chapter 13, the name and address of any trustee appointed in the case and, in a case originally commenced under chapter 7, the names and addresses of the members of any creditors' committee;

(3) the names and addresses of the members of, and attorneys for, any committee organized prior to the order for relief in the chapter 11 case, and a brief description of the circumstances surrounding the formation of the committee and the date of its formation;

(4) the following information with respect to each of the holders of the twenty (20) largest unsecured claims, excluding insiders: the name, the address (including the number, street, apartment or suite number, and zip code, if not included in the post office address), the telephone number, e-mail address, the name(s) of person(s) familiar with the debtor's account, the amount of the claim, and an indication of whether the claim is contingent, unliquidated, disputed or partially secured;

(5) the following information with respect to each of the holders of the five (5) largest secured claims: the name, the address (including the number, street, apartment or suite number, and zip code, if not included in the post office address), the amount of the claim, a brief description and an estimate of the value of the collateral securing the claim, and whether the claim or lien is disputed;

(6) summary of the debtor's assets and liabilities;

(7) the number and classes of shares of stock, debentures or other securities of the debtor that are publicly held, and the number of holders thereof, listing separately those held by each of the debtor's officers and directors and the amounts so held;

(8) a list of all of the debtor's property in the possession or custody of any custodian, public officer, mortgagee, pledgee, assignee of rents or secured creditor, or agent for any such entity, giving the name, address, and telephone number of each such entity and the court in which any proceeding relating thereto is pending;

(9) a list of the premises owned, leased or held under other arrangement from which the debtor operates its business;

(10) the location of the debtor's substantial assets, the location of its books and records, and the nature, location and value of any assets held by the debtor outside the territorial limits of the United States;

(11) the nature and present status of each action or proceeding, pending or threatened, against the debtor or its property where a judgment against the debtor or a seizure of its property may be imminent; and

(12) the names of the individuals who comprise the debtor's existing senior management, their tenure with the debtor, and a brief summary of their relevant responsibilities and experience.

(b) *Additional Information if Business is to Continue*. If the debtor intends to continue to operate its business, the affidavit must so state and set forth:

(1) the estimated amount of the weekly payroll to employees (exclusive of officers, directors, stockholders and partners) for the thirty (30) day period following the filing of the chapter 11 petition;

(2) the amount paid and proposed to be paid for services for the thirty (30) day period following the filing of the chapter 11 petition –

(A) if the debtor is a corporation, to officers, stockholders and directors;

(B) if the debtor is an individual or a partnership, to the individual or the members of the partnership; and

(C) if a financial or business consultant has been retained by the debtor, to the consultant; and

(3) a schedule, for the thirty (30) day period following the filing of the chapter 11 petition, of estimated cash receipts and disbursements, net cash gain or loss, obligations and receivables expected to accrue but remain unpaid, other than professional fees, and any other information relevant to an understanding of the foregoing.

(c) *When to File.* In a voluntary chapter 11 case, the affidavit must accompany the petition. In an involuntary chapter 11 case, the affidavit must be filed within fourteen (14) days after the date on which (i) the order for relief is entered, or (ii) a consent to the petition is filed.

(d) *Waiver of Requirements*. Upon motion of the debtor on notice to the United States Trustee showing that it is impracticable or impossible to furnish any of the foregoing information, the Court may dispense with any of the foregoing provisions, with the exception of those contained in paragraphs (1), (2), (3) and (4) of subdivision (a) of this rule.

(e) *Proposed Case Conference Order*. Except in a case under subchapter V of chapter 11 and except as provided in Local Bankruptcy Rule 2007.2-1, debtor's counsel must submit to the Court with the chapter 11 petition a proposed case conference order in the form available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/1007-2-e-procedures.docx). Any initial conference must be conducted approximately thirty (30) days after the filing of the petition or at such other time as the Court may direct. Attorneys should consult judges' individual rules of practice with respect to the scheduling of the initial conference.

(f) *Case Management Orders for Cases Under Subchapter V of Chapter 11.* In a case under Subchapter V of Chapter 11, the Subchapter V trustee must submit to the Court a proposed Case Management Order Regarding Procedures in Chapter 11 Subchapter V Cases, Scheduling Case Conference, and Setting Deadlines for Filing Plan, in the form available on the Court website (https://www.nysb.uscourts.gov/news/new-case-management-order-chapter-11-subchapter-v-cases).

Comment

This rule is derived from Former Local Bankruptcy Rule 52, with the exception of subdivisions (a)(5) and (a)(11), which are derived from former Standing Order M-147.

Subdivision (e) of this rule, added in 1996, is intended to aid in the implementation of Local Bankruptcy Rule 9076-1.

Subdivision (c) of this rule was amended in 2009 to change the time period from fifteen (15) to fourteen (14) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Subdivision (a)(4) of this rule was amended in 2017 to require e-mail addresses of the 20 largest unsecured creditors.

Subdivision (e) of this rule was amended in 2017 to clarify that it is the responsibility of Debtor's counsel to submit the proposed case conference order. It was amended in 2024 to alert parties to check judges' individual rules of practices regarding case conferences. It was further amended in 2024 to carve out cases under subchapter V of chapter 11 because, in those cases, an initial conference is scheduled by the Court pursuant to section 1188(a) of the Bankruptcy Code, and also to reflect the provisions of Local Bankruptcy Rule 2007.2-1 with respect to debtors that are health care businesses.

Rule 1007-3 CORPORATE OWNERSHIP STATEMENT TO BE FILED BY DEBTOR THAT IS A BUSINESS ENTITY OF ANY KIND

The Corporate Ownership Statement required to be filed by any debtor that is a corporation with the petition under Bankruptcy Rule 1007(a)(1), must also be filed by any debtor that is a business entity of any kind irrespective of whether it is of a kind enumerated in section 101(9)(A) of the Bankruptcy Code. In addition to the information required under Bankruptcy Rule 7007.1, the statement must include the name and address of any corporation whose securities are publicly traded in which the debtor directly or indirectly owns 10% or more of any class of the corporation's equity interests, and any general or limited partnership or joint venture in which the debtor owns an interest.

Comment

Bankruptcy Rule 1007(a), as amended effective December 1, 2003, requires a Corporate Ownership Statement containing the information

described in Bankruptcy Rule 7007.1 to be filed by the debtor with the petition. Bankruptcy Rule 1007(a), however, only refers to a debtor that is a corporation. "Corporation" is broadly defined under section 101(9) of the Bankruptcy Code (and includes, among other entities, limited liability companies and other unincorporated companies or associations), but it does not cover general or limited partnerships. The reasons for which this rule was enacted – to give the Judges of this Court information by which they can determine whether or not they need to recuse themselves in a particular case – apply equally without regard to the legal form of a business entity. Local Bankruptcy Rule 1007-3 was therefore amended in 2024 to mandate that the Corporate Ownership Statement referenced in Bankruptcy Rule 1007(a) be filed by a business entity of any kind.

The heading of this rule was amended in 2009 to more accurately reflect the substance of the rule.

Rule 1009-1 NOTICE OF AMENDMENT OF SCHEDULES IN CHAPTER 11 CASES

Whenever the debtor or trustee in a chapter 11 case amends the debtor's schedules to change the amount, nature, classification or characterization of a debt owing to a creditor, the debtor or trustee promptly must transmit notice of the amendment to the creditor.

Comment

This rule is derived from Former Local Bankruptcy Rule 53.

Bankruptcy Rule 1009(a) states that notice of an amendment to the debtor's schedules "shall" be given to the trustee "and to any entity affected thereby." Local Bankruptcy Rule 1009-1 makes clear that any change in the amount, nature, classification or characterization of a debt is a change for which notice is required.

The term "characterization," as used in this rule, includes a description of whether the debt is disputed or undisputed, fixed or contingent, and liquidated or unliquidated.

Amendments to schedules also must comply with the provisions of Local Bankruptcy Rule 1007-1(b)(2) and (c)(2).

Rule 1010-1 CORPORATE OWNERSHIP STATEMENT TO BE FILED IN AN INVOLUNTARY CASE BY EACH PETITIONER THAT IS ABUSINESS ENTITY OF ANY KIND

The Corporate Ownership Statement required to be filed under Bankruptcy Rule 1010(b) by each petitioner that is a corporation must also be filed by each petitioner that is a business entity of any kind irrespective of whether it of a kind enumerated in section 101(9)(A) of the Bankruptcy Code.

Comment

This rule was amended in 2024 to clarify the entities to which it applies.

Bankruptcy Rule 1010(b), which became effective on December 1, 2008, requires a Corporate Ownership Statement containing the information described in Bankruptcy Rule 7007.1 to be filed by each petitioner that is a corporation. Bankruptcy Rule 1010(b), however, only refers to a petitioner that is a corporation. "Corporation" is broadly defined under section 101(9) of the Bankruptcy Code (and includes, among other entities, limited liability companies and other unincorporated companies or associations), but it does not cover general or limited partnerships.

The reasons for which Bankruptcy Rule 1010(b) was enacted – to give the Judges of this Court information by which they can determine whether or not they need to recuse themselves in a particular case – apply equally without regard to the legal form of a business entity. Local Bankruptcy Rule 1010-1 was therefore amended in 2024 to mandate that the Corporate Ownership Statement referenced in Bankruptcy Rule 1010(b) be filed by a business entity of any kind.

Rule 1011-1 CORPORATE OWNERSHIP STATEMENT TO BE FILED BY A BUSINESS ENTITY OF ANY KIND THAT IS A RESPONDENT TO AN INVOLUNTARY PETITION OR PETITION FOR RECOGNITION

The Corporate Ownership Statement required to be filed under Bankruptcy Rule 1011(f) by a corporation responding to an involuntary petition or under Bankruptcy Rule 1012(c) by a corporation responding to a petition for recognition of a foreign proceeding must also be filed by any entity responding to an involuntary petition or a petition for recognition of a foreign proceeding that is a business entity of any kind irrespective of whether it is of a kind enumerated in section 101(9)(A) of the Bankruptcy Code. If the responding entity is the debtor, in addition to the information required under Bankruptcy Rule 7007.1, the statement must include the information described in Bankruptcy Rule 1007-3.

Comment

Bankruptcy Rule 1011(f), which became effective on December 1, 2008, requires a Corporate Ownership Statement containing the information described in Bankruptcy Rule 7007.1 to be filed by any corporation responding to an involuntary petition or a petition for recognition of a foreign proceeding. "Corporation" is broadly defined under section 101(9) of the Bankruptcy Code (and includes, among other entities, limited liability companies and other unincorporated companies or associations), but it does not cover general or limited partnerships. The reasons for which this rule was enacted – to give the Judges of this Court information by which they can determine whether or not they need to

recuse themselves in a particular case – apply equally without regard to the legal form of a business entity. Local Bankruptcy Rule 1011-1 was therefore amended in 2024 to mandate that the Corporate Ownership Statement referenced in Bankruptcy Rule 1011(f) be filed by a business entity of any kind. If the responding entity is the debtor, the additional information described in the second sentence of Local Bankruptcy Rule 1007-3 must be included.

Rule 1014-1 TRANSFER OF CASES

Unless the Court orders otherwise, whenever a case is ordered transferred from this district, the Clerk, promptly after entry of the order, shall effectuate the transfer of the case to the transferee court.

Comment

This rule is derived from Former Local Bankruptcy Rule 7 and is an adaptation of Civil Rule 83.1 of the Local District Rules. Although not expressly stated, this rule contemplates that whenever transfer of a case under the Bankruptcy Code is ordered by a District Judge, the District Clerk will transmit the order and related documents to the Clerk of the Court.

This rule was amended in 2013 to eliminate the need for the Clerk to transmit certified copies or originals of documents in the age of electronic transmission. The District Court similarly amended Civil Rule 83.1 of the Local District Rules in recognition of the electronic filing of documents.

Rule 1073-1 ASSIGNMENT OF CASES AND PROCEEDINGS

(a) *Cases*. Where the principal place of business in the District of the debtor set forth on the petition is in (i) New York County or Bronx County, the Clerk shall assign the case to a Judge sitting in New York County; (ii) Rockland County or Westchester County, the Clerk shall assign the case to a Judge sitting in Westchester County; or (iii) Dutchess County, Orange County, Putnam County, Sullivan County, Columbia County, Ulster County or Greene County, the Clerk shall assign the case to a Judge sitting in Dutchess County. No case assignment will be based upon a post office box address. Where more than one Judge is sitting in a county, cases, other than chapter 13 cases, shall be assigned by random selection so that each Judge shall be assigned approximately the same number of cases. The Judges may direct that chapter 13 cases be referred to the same Judge or Judges. The Clerk shall have no discretion in determining the Judge to whom any case is assigned; the action shall be solely ministerial.

(b) *Cases Involving Affiliates*. Cases involving debtors that are affiliates shall be assigned to the same Judge.

(c) *Proceedings*. Except as otherwise provided in the Bankruptcy Code or Bankruptcy Rules, the assignment of a case to a Judge includes the assignment of all proceedings arising under title 11 or arising in, or related to, a case under title 11.

(d) *Adversary Proceedings or Contested Matters in Cases Pending Outside of this Court.* An adversary proceeding or contested matter that does not arise out of a case pending in this Court shall be designated by the Clerk to an office of the Clerk in New York County, Westchester County or Dutchess County. In making the designation, the Clerk shall take into consideration the residence of the defendant, the convenience of litigants, counsel and witnesses, and the place where the cause of action arose. Unless the Court orders otherwise, the county designated by the Clerk shall be the place of trial and all other proceedings. The designation shall be made at the time of commencement or transfer of the adversary proceeding or contested matter, and the Clerk shall give prompt notice thereof to the parties or their counsel. After the designation, the adversary proceeding or contested matter shall be assigned to a Judge in the manner provided in subdivision (a) of this rule. Objections, if any, to the designation shall be made on notice to opposing counsel, before the Judge to whom the adversary proceeding or contested matter has been assigned.

(e) *Assignments and Reassignments*. The Chief Judge shall supervise and rule upon all assignments and reassignments of cases, adversary proceedings, contested matters and actions.

(f) *Mega Chapter 11 Cases*. Notwithstanding subdivision (a) of this rule, the Clerk shall assign a mega chapter 11 case to a Judge in the District by random selection irrespective of the courthouse in which the case is filed. A chapter 11 case qualifies as a mega chapter 11 case if the assets or liabilities of the debtor are equal to or greater than $100 million. A multi-debtor chapter 11 case qualifies as a mega chapter 11 case if the cumulative assets or cumulative liabilities of the filing debtors are equal to or greater than $100 million.

Comment

This rule is derived from Former Local Bankruptcy Rule 5. This rule was amended in 2004 to eliminate the use of a post office box address as the basis for case assignment.

This rule was amended in 2017 to eliminate the reference to venue and assignment of removed actions that do not arise from cases pending in this Court.

This rule was amended in 2021 to provide for the random assignment of mega chapter 11 cases irrespective of the courthouse in which the case is filed.

This rule was amended in 2023 to memorialize concurrent jurisdiction in Columbia County, in addition to Ulster and Greene Counties.

Rule 1074-1 RESOLUTION OR OTHER STATEMENT AUTHORIZING FILING

A voluntary petition, or a consent to an involuntary petition, that is filed by or on behalf of a business entity of any kind must be accompanied by (a) a copy of the duly attested resolution, consent or other appropriate document that authorizes the filing, and (b) a duly attested statement that all persons whose consent is required for the filing have consented to the filing.

Comment

This rule is derived from Former Local Bankruptcy Rule 51. The provision regarding the filing of a duly attested statement regarding consents to a partnership filing was added in 1996.

This rule was amended in 2024 to make clear that any entity of any kind that files a voluntary petition or that consents to an involuntary petition must provide the required evidence that the filing or consent has been authorized and the required attestation that consents have been obtained from all persons whose consents are required.

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

Rule 2002-1 NOTICE TO UNITED STATES TRUSTEE

Unless the case is a chapter 9 case or the United States Trustee requests otherwise, any notice required to be given to creditors under Bankruptcy Rule 2002 also must be given to the United States Trustee.

Comment

This rule is derived from Former Local Bankruptcy Rule 36.

Rule 2002-4 NOTICE OF PETITION FOR RECOGNITION IN CHAPTER 15 CASE

A foreign representative commencing a chapter 15 case must forthwith submit a proposed scheduling order, provide notice required by Bankruptcy Rule 2002(q)(1) in accordance with the terms of that scheduling order, and file proof of service in accordance with Local Bankruptcy Rule 9078-1. In addition to the information required under Bankruptcy Rule 2002(q), the notice must include a statement that, at the hearing, the Court may order the scheduling of a case management conference to consider the efficient administration of the case.

Comment

This rule was added in 2013 to include in the Local Bankruptcy Rules the notice requirements relating to chapter 15 cases promulgated by General Order M-323, with stylistic changes to conform to Bankruptcy Rule 2002(q)(1). The second sentence was added so that parties have notice that the Court may, at the hearing on the petition for recognition of a foreign proceeding, schedule a case management conference to consider the efficient administration of the case. General Order M-323 was abrogated and replaced by this local rule in 2013.

The rule was amended in 2024 to make clear that a foreign representative must submit a proposed scheduling order, which is already the prevailing practice in this district.

Rule 2002-5 COMPILATION AND FILING OF MASTER SERVICE LISTS IN MEGA CHAPTER 11 CASES

(a) The debtor(s) in possession in a mega chapter 11 case (or in a set of procedurally consolidated mega chapter 11 cases) must prepare and file a master service list that includes the following persons:

(i) the Office of the United States Trustee;

(ii) the attorneys for the debtor(s);

(iii) those persons who have filed notices of appearance and who have requested service pursuant to Bankruptcy Rule 2002;

(iv) the attorneys for each official committee;

(v) all applicable government agencies to the extent required by Bankruptcy Rule 2002(j); and

(vi) such other parties in interest as the court may direct.

(b) If a claims agent is retained, then the claims agent shall prepare and maintain the consolidated master service list required under subparagraph (a), and the list shall be made available on the claims agent's website.

(c) The master service list shall be compiled and filed within seven (7) business days after the commencement of a case. Thereafter, the party responsible for the compilation and maintenance of the list shall update and file a copy of the updated master service list at least every fourteen (14) days.

Comment

This Rule was added in 2024. The Court has the power pursuant to Bankruptcy Rule 2002(i) to limit the service of certain motions or other notices to the official committees in a given case and to creditors and equity security holders who have filed requests that all notices be sent to them. In addition, courts often direct that motions that are not governed by Bankruptcy Rule 2002(a) be served upon parties in interest who have filed requests for notices. However, there is no established practice by which lists of such parties are compiled and made readily available. The purposes of Local Bankruptcy Rule 2002-5 is to establish such a practice.

This rule is not intended to modify the requirements of Bankruptcy Rule 2002 or other Bankruptcy Rules regarding the persons upon whom service of particular motions is required. Practitioners should consult the rules that govern each particular motion.

Bankruptcy Rule 9013 and Local Bankruptcy Rule 9013-1 govern situations in which the Bankruptcy Rules or these Local Bankruptcy Rules require notice but do not specify the parties upon whom service is required.

Rule 2004-1 UNIFORM DEFINITIONS FOR EXAMINATIONS AND REQUESTS FOR PRODUCTION OF DOCUMENTS UNDER RULE 2004

Civil Rule 26.3 of the Local District Rules shall apply to requests for examinations and the production of documents under Bankruptcy Rule 2004.

Comment

This rule was added in 2013 to clarify that the uniform definitions set forth in Civil Rule 26.3 of the Local District Rules are applicable to examinations and the production of documents under Bankruptcy Rule 2004. Pursuant to Local Bankruptcy Rule 7026-1, the uniform definitions are applicable to discovery requests in cases and proceedings.

Rule 2007.1-1 ELECTION OF TRUSTEE IN CHAPTER 11 CASES

A meeting of creditors convened for the purpose of electing a chapter 11 trustee pursuant to section 1104(b) of the Bankruptcy Code shall be deemed a meeting of creditors under section 341 of the Bankruptcy Code.

Comment

This rule clarifies that a meeting convened for the purpose of electing a chapter 11 trustee pursuant to section 1104(b) of the Bankruptcy Code satisfies the requirement of section 702(b) of the Bankruptcy Code that a trustee be elected at a meeting of creditors held under section 341 of the Bankruptcy Code.

Rule 2007.2-1 APPOINTMENT OF PATIENT CARE OMBUDSMAN IN A HEALTH CARE BUSINESS CASE

Counsel for a debtor that is a "health care business" as defined in 11 U.S.C. § 101(27A) must schedule with the Court a case conference to occur as soon as practicable upon the filing of the bankruptcy petition but no later than fourteen (14) days after the petition date to discuss the provisions of section 333 of the Bankruptcy Code and Bankruptcy Rule 2007.2. If the debtor intends to seek a finding that the appointment of a patient care ombudsman is not necessary then the Court will set a schedule for the consideration of that issue that is consistent with the deadlines set forth in section 333 and Bankruptcy Rule 2007.2. The scheduling of a conference under this Rule shall excuse counsel from the requirement under Local Bankruptcy Rule 1007-2(e) to submit an order scheduling an initial case conference.

Comment

This rule was added in 2024. Section 333 of the Bankruptcy Code requires the appointment of a patient care ombudsman in a chapter 7, 9 or 11 case in which the debtor is a health care business and provides that such appointment shall be made "no later than 30 days" after the commencement of the case, unless the court finds that the appointment is not necessary for the protection of patients under the specific facts of the case. Bankruptcy Rule 2007-2(a) further provides that the court "shall" order the appointment of a patient care ombudsman in a chapter 7, 9 or 11 case in which the debtor is a health care business unless the court finds, based on a motion filed no later than 21 days after the commencement of

the case, that such an appointment is not necessary under the specific circumstances of the case for the protection of patients. This rule provides a procedure to ensure that any orders and determinations required by Section 333 and Bankruptcy Rule 2007.2 are made within the required time frames.

Rule 2014-1 EMPLOYMENT OF PROFESSIONAL PERSONS

An application for the employment of a professional person pursuant to sections 327 and 328 of the Bankruptcy Code must state the specific facts showing the reasonableness of the terms and conditions of the employment, including the terms of any retainer, hourly fee or contingent fee arrangement.

Comment

This rule is derived from Former Local Bankruptcy Rule 39. The information required by Bankruptcy Rule 2014(a) and this rule may be contained in the same application.

Rule 2015-1 STORAGE OF BOOKS AND RECORDS

The trustee or debtor in possession may place in storage, at the expense of the estate, the debtor's books, records, and papers. If stored, electronic records must be stored in their original electronic formats. Non-electronic records may be converted and stored in electronic format.

Comment

This rule is derived from Former Local Bankruptcy Rule 43.

This rule sets no time limit on the storage of books and records. On request, the Court may issue an appropriate order limiting storage of the debtor's books, records, and papers. Disposal of the debtor's books, records, and papers is governed by sections 363 and 554 of the Bankruptcy Code.

This rule was amended in 2016 to permit the electronic storage of documents. The estate may electronically store preexisting electronic records in their original formatting and may convert and store other documents in electronic format as well. The rule was intended to provide a more cost-effective alternative to store the debtor’s books, records and papers.

Rule 2016-1 COMPENSATION OF PROFESSIONALS

(a) A person requesting an award of compensation or reimbursement of expenses for a professional must comply with the Amended Guidelines for Fees and Disbursements for

Professionals in Southern District of New York Bankruptcy Cases promulgated by the Court, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/m447.pdf).

(b) A person requesting an award of compensation or reimbursement of expenses for a professional must use in connection with the application a form order that conforms to the Order Granting Application(s) for Allowance of Interim/Final Compensation and Reimbursement of Expenses promulgated by the Court, including any applicable schedules, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/2016-1-b-order.docx).

(c) A person requesting an order establishing procedures for monthly compensation and reimbursement of expenses for professionals must comply with the Procedures for Monthly Compensation and Reimbursement of Expenses of Professionals promulgated by the Court, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/2016-1-c-procedures.docx).

Comment

This rule was amended in 2013 to include links to the guidelines, procedures, and form orders referenced therein. The guidelines, procedures, and forms may be amended by the Court after giving notice and opportunity for comment as is appropriate, in which case revised versions will be posted on the website at the places identified in the above links.

Rule 2016-2 COMPENSATION OR REIMBURSEMENT OF EXPENSES IN CHAPTER 7 CASES

Unless the Court orders otherwise, a person seeking an award of compensation or reimbursement of expenses in a chapter 7 case must file an application with the Clerk and serve a copy on the trustee and the United States Trustee not later than twenty-one (21) days prior to the date of the hearing on the trustee's final account. Failure to file and serve an application within the time prescribed by this rule may result in its disallowance. Unless the Court orders otherwise, the United States Trustee shall file any objection to such application at least two (2) days prior to the date of the hearing.

Comment

This rule is derived from former Standing Order M-90.

This rule supplements Local Bankruptcy Rule 2016-1 and facilitates the expeditious closing of chapter 7 cases. Pursuant to Local Bankruptcy Rule 5009-1, the trustee is obligated to set forth the language contained in this rule, or words of similar import, on the notice of filing of a final account.

This rule was amended in 2009 to change the relevant time period from twenty (20) to twenty-one (21) days. The purpose of the amendment

was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

The deadline in the last sentence of this rule was also amended in 2009 to delete the reference to "business" days so that the time period will be computed by calendar days, consistent with the 2009 amendments to Bankruptcy Rule 9006(a).

Rule 2090-1 ADMISSION TO PRACTICE; WITHDRAWAL AS ATTORNEY OF RECORD

(a) *General*. An attorney who may practice in the District Court pursuant to Civil Rule 1.3(a) and (b) of the Local District Rules may practice in this Court.

(b) *Pro Hac Vice*. Upon motion to the Court, a member in good standing of the bar of any state or of any United States District Court may be permitted to practice in this Court in a particular case, adversary proceeding, or contested matter. Forms and instructions pertaining to *pro hac vice* admission can be found on the Court's website (https://www.nysb.uscourts.gov/pro-hac-vice).

(c) *Repealed*.

(d) *Pro Se Designation of Address*. An individual appearing pro se must include the individual's residence address and telephone number in the individual's initial notice or pleading.

(e) *Withdrawal as Attorney of Record*. An attorney who has appeared as attorney of record may withdraw or be replaced only by order of the Court for cause shown.

(f) *Exceptions*. Local Bankruptcy Rule 2090-1 shall not apply to (i) the filing of a proof of claim or interest, or (ii) an appearance by a child support creditor or such creditor's representative.

Comment

Subdivisions (a) and (b) of this rule are derived from Former Local Bankruptcy Rule 3. Subdivisions (d), (e), and (f)(i) of this rule are derived from Former Local Bankruptcy Rule 4 and are an adaptation of Civil Rules 1.3(c), (d), and 1.4 of the Local District Rules. Subdivision (f)(ii) of this rule, added in 1996, is derived from section 304(g) of the Bankruptcy Reform Act of 1994, which permits child support creditors or their representatives to appear and intervene without charge and without meeting any special local court rule requirements for attorney appearances.

Subdivision (c) of this rule, requiring a local address for service, was repealed in 2004 because it could have been construed to require retention of local counsel when the attorney for the debtor or for a petitioning creditor does not have an office located in the district.

The link to the Court's website containing forms and instructions on *pro hac vice* admission was added to subdivision (b) in 2024.

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

Rule 3002-1 DEADLINE IN CHAPTER 7 CASES FOR ADMINISTRATIVE CLAIMS PURSUANT TO 11 U.S.C. § 503(b)(9)

Unless the Court orders otherwise, any request in a chapter 7 case for allowance of an administrative expense for the value of goods delivered to a debtor in the ordinary course of the debtor's business within twenty (20) days prior to the commencement of the case pursuant to 11 U.S.C. § 503(b)(9) shall be made by a written motion filed with the Court no later the bar date that has been set for the filing of claims in that chapter 7 case. Notice of the deadline established by this Rule shall be included in any notice of the chapter 7 bar date. Failure to file a timely request for allowance in accordance with this Rule will result in denial of administrative expense treatment for such claim unless the movant can show that it did not have proper notice.

Comment

Local Bankruptcy Rule 3002-1 was adopted in 2024. It applies only in chapter 7 cases. In chapter 11 cases, the deadlines for the filing of claims or motions pursuant to 503(b)(9) will be set by court order. In chapter 7 cases in which it does not appear that assets will be available for distribution the setting of a bar date is usually deferred, and in such cases the deadline for the filing of motions pursuant to section 503(b)(9) will similarly be deferred.

Rule 3003-1 REQUESTS FOR ORDERS ESTABLISHING DEADLINES FOR FILING CLAIMS IN CHAPTER 11 CASES

A request for an order establishing a deadline for filing proofs of claim in a chapter 11 case must conform to the Procedural Guidelines for Filing Requests for Orders to Set the Last Date for Filing Proofs of Claim, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/3003-1-guidelines.pdf).

Comment

Procedures for requesting deadlines for filing claims, traditionally known as "bar dates," were originally promulgated by General Order M-386.

This rule was amended in 2013 to refer to the Procedural Guidelines that apply to bar date orders and to include a link to the Court's website where practitioners may access the governing procedures.

Rule 3008-1 RECONSIDERATION OF CLAIMS

No oral argument shall be heard on a motion to reconsider an order of allowance or disallowance of a claim unless the Court grants the motion and specifically orders that the matter be reconsidered upon oral argument. If a motion to reconsider is granted, notice and a hearing shall be afforded to parties in interest before the previous action taken with respect to the claim may be vacated or modified.

Comment

This rule, added in 1996, is derived from the Advisory Committee Note to Bankruptcy Rule 3008 and Former Local Bankruptcy Rule 13(i).

Rule 3011-1 DISPOSITION OF UNCLAIMED FUNDS UNDER A CONFIRMED CHAPTER 11 PLAN

(a) A chapter 11 plan must provide for the distribution of any unclaimed property that cannot be distributed pursuant to section 347(b) of the Bankruptcy Code, including that any unclaimed property may be

(1) Reallocated pursuant to the absolute priority rule;

(2) Reallocated for distribution pursuant to the plan's distribution scheme; or

(3) Donated to a not-for-profit, non-religious organization designated to receive unclaimed property.

(b) If a confirmed chapter 11 plan does not provide for the disposition of unclaimed property that cannot be distributed pursuant to section 347(b) of the Bankruptcy Code, or such unclaimed property has not otherwise been disposed of pursuant to an order of the Court, such unclaimed property shall be reallocated for distribution pursuant to the plan's distribution scheme.

(c) If a confirmed chapter 11 plan does not provide for the disposition of unclaimed property that cannot be distributed pursuant to section 347(b) of the Bankruptcy Code, or such unclaimed property has not otherwise been disposed of pursuant to an order of the Court, and all claims have been paid in full, then the Court may, after notice and a hearing, approve a motion by the plan administrator, or similar appointee, to donate any unclaimed property to an appropriate not-for-profit, non-religious organization.

Comment

This rule was added in 2016. Section 347(b) governs the treatment of any property "remaining unclaimed" at the expiration of the time

allowed for acts necessary for participation in a plan confirmed under chapter 9, 11 or 12. Section 1143 establishes a five year limit from the date the confirmation order is entered to take such acts. Under section 347(b), any "security, money, or other property" remaining unclaimed at this time reverts to the debtor or to the entity that acquired the assets of the debtor under the plan.

Section 347(b) may not provide a satisfactory result in the liquidating chapter 11 case of a debtor in which no entity acquires most of the debtor's assets and the debtor essentially ceases to exist. Although there may remain a shell entity to which assets can be returned, doing so may serve no useful purpose. The rule's proposed solution is to require the inclusion of preemptive provisions in the chapter 11 liquidating plan, to provide for the alternative distribution of any unclaimed property within five years of the date the confirmation order is entered. This would avoid the five year distribution deadline created by section 1143 and the resulting application of section 347(b).

Subdivisions (b) and (c) of this rule were amended in 2017 to clarify that unclaimed property that has been disposed of pursuant to an order of the Court is not subject to the provisions of the rule.

Rule 3015-1 CHAPTER 13 PLANS: MODEL PLAN AND CONFIRMATION ORDER; TREATMENT OF DEBTOR'S ATTORNEY'S FEES AS ADMINISTRATIVE EXPENSES; SERVICE

(a) *Model Plan and Confirmation Order*. In a chapter 13 case, the plan must conform to the Model Chapter 13 Plan adopted by this Court, and the proposed confirmation order must conform to the local form of Chapter 13 Confirmation Order adopted by this Court. The local forms of the Model Chapter 13 Plan and Chapter 13 Confirmation Order are available on the Court's website at (https://www.nysb.uscourts.gov/chapter-13-filing-and-plan-information).

(b) *Notice and Hearing for Attorney's Fees to be Treated as Administrative Expense*. If the compensation, or any portion thereof, of the attorney for a chapter 13 debtor is to be treated as an administrative expense under the plan, the attorney must provide adequate notice of that fact to the trustee, the United States Trustee, and all creditors. If the application for compensation does not exceed $1,000, Local Bankruptcy Rule 9074-1(b)(1) shall apply. The notice shall be deemed adequate if the plan is transmitted timely to all parties in interest and states with particularity the timing and amount of any payments to be made to the attorney.

(c) *Service of Plan*. Unless the court orders otherwise, the debtor must serve the plan and any amended plan that changes the treatment of any party on the chapter 13 trustee, the United States trustee, and all creditors at least twenty-eight (28) days, plus an additional three days if service is by mail, before the confirmation hearing. The debtor must file timely proof of service in accordance with Local Bankruptcy Rule 9078-1.

Comment

Subdivision (a) of this rule was amended in 2013 to state in the rule the link to the Court's website where practitioners may access the referenced forms, which were originally promulgated by General Order M-384. General Order M-384 was abrogated and replaced by this Local Bankruptcy Rule. It was further amended in 2024 to update the link containing the form of Model Chapter 13 Plan adopted by this Court in December 2021.

Subdivision (c) of this rule was amended in 2013 to include the requirements established by General Order M-406, relating to service of chapter 13 plans. General Order M-406 was abrogated and replaced by this local rule.

Subdivision (b) of this Rule was amended in 2024 to correspond with amendments to Local Bankruptcy Rule 9074-1 regarding applications on notice of presentment.

Rule 3015-2 MODIFICATION OF CHAPTER 13 PLAN BEFORE CONFIRMATION

If the debtor seeks to modify a chapter 13 plan prior to confirmation, the debtor must serve a copy of the modified plan on the chapter 13 trustee, the United States Trustee, and such creditors as the Court may direct.

Comment

This rule is derived from Former Local Bankruptcy Rule 60 and supplements section 1323 of the Bankruptcy Code.

Rule 3015-3 HEARING ON CONFIRMATION OF CHAPTER 13 PLAN

The debtor must attend the hearing on confirmation of the chapter 13 plan, unless the Court, upon application of the debtor on such notice as the Court directs, and for cause shown, orders otherwise.

Comment

This rule is derived from Former Local Bankruptcy Rule 59.

Rule 3017-1 PROPOSED DISCLOSURE STATEMENTS IN CHAPTER 9 AND CHAPTER 11 CASES: TRANSMITTAL AND DISCLAIMER

(a) *Transmittal.* Unless the Court orders otherwise, the proponent of a plan must transmit all notices and documents required to be transmitted by Bankruptcy Rule 3017(a). Upon

request, the Clerk shall supply the proponent, at a reasonable cost, with any available matrix of creditors for the purpose of preparing address labels.

(b) *Disclaimer Other Than in Small Business Cases*. Except in a case where the debtor is a small business, before a proposed disclosure statement has been approved by the Court, the proposed disclosure statement must have on its cover, in boldface type, the following language, or words of similar import:

This is not a solicitation of acceptance or rejection of the plan. Acceptances or rejections may not be solicited until a disclosure statement has been approved by the Court. This disclosure statement is being submitted for approval but has not been approved by the Court.

(c) *Disclaimer in Small Business Cases*. In a case where the debtor is a small business that has not elected to proceed under subchapter V of chapter 11 of the Bankruptcy Code, after conditional approval but before final approval of a proposed disclosure statement has been given, the proposed disclosure statement must have on its cover, in boldface type, the following language, or words of similar import:

The debtor in this case is a small business. As a result, the debtor is permitted to distribute and has distributed this disclosure statement before its final approval by the court. If an objection to this disclosure statement is filed by a party in interest, final approval of this disclosure statement will be considered at or before the hearing on confirmation of the plan.

Comment

Subdivisions (a) and (b) of this rule are derived from Former Local Bankruptcy Rule 55. Subdivision (c) of this rule, added in 1996, is derived from section 217 of the Bankruptcy Reform Act of 1994.

Bankruptcy Rule 3017(a) provides that the plan and the disclosure statement shall be mailed with the notice of the hearing to the debtor, the trustee, each committee, the Securities and Exchange Commission, the United States Trustee, and any party in interest who requests in writing a copy of the disclosure statement or plan.

Bankruptcy Rule 2002(b) permits the Court to require a party other than the Clerk to bear the responsibility for transmitting the notices and documents specified in this rule. The reasonable cost, if any, provided for in subdivision (a) of this rule is the fee prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. §1930(b).

The rule was amended in 2024 to make clear that subdivision (c) applies only to small business cases that are not governed by the provisions of subchapter V, since there is no separate disclosure statement in a subchapter V case unless the Court orders otherwise for cause.

Rule 3018-1 CERTIFICATION OF ACCEPTANCE OR REJECTION OF PLANS IN CHAPTER 9 AND CHAPTER 11 CASES

(a) *Certification of Vote*. At least seven (7) days prior to the hearing on confirmation of a chapter 9 or chapter 11 plan, the proponent of a plan or the party authorized to receive the acceptances and rejections of the plan must certify to the Court in writing the amount and number of allowed claims or allowed interests of each class accepting or rejecting the plan and any ballots not counted. A copy of the certification must be served upon the debtor, the trustee, each committee, and the United States Trustee. The Court may find that the plan has been accepted or rejected on the basis of the certification.

(b) *Notice of Ineffective Election*. If a plan in a chapter 9 or chapter 11 case permits the holder of a claim or interest to make an election with respect to the treatment of the claim or interest, and for any reason the holder's election is deemed ineffective or otherwise is not counted by the person authorized to tabulate ballots, that person must give notice of that fact to the holder at least seven (7) days prior to the hearing on confirmation.

Comment

Subdivision (a) of this rule is derived from Former Local Bankruptcy Rule 54 and is intended to permit the Court to rely on a certification in determining whether a plan has been accepted or rejected under section 1126 of the Bankruptcy Code. If an issue has been raised with respect to the acceptance or rejection of a plan, the Court may hold an evidentiary hearing. Where acceptances or rejections of a plan of reorganization have been solicited prior to the commencement of the case, the certification may be filed together with the petition.

Subdivision (b) of this rule, added in 1996, is intended to enable a creditor or interest holder who has the right to elect the treatment of its claim or interest on a ballot to be notified if its ballot was not counted or was rejected, and therefore that its election may not be effective.

Subdivisions (a) and (b) of this rule were amended in 2009 to change the time periods from five to seven days. The purpose of the amendment was to conform the time periods in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Subdivision (a) of the rule was amended in 2016 to require the proponent of the plan, or party authorized to receive votes on the plan, to include in the certification to the Court any ballots not counted. This was done to enhance transparency and increase access to voting results.

Rule 3018-2 ACCEPTANCES OR REJECTIONS OF PLAN SOLICITED BEFORE PETITION IN CHAPTER 11 CASES

A party seeking to obtain confirmation of any plan proposed and accepted before the commencement of a chapter 11 case must comply with the Procedural Guidelines for Prepackaged Chapter 11 Cases, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/3018-2-guidelines.pdf)

Comment

Procedures with respect to prepackaged chapter 11 plans were promulgated by General Order M-387. This rule was amended in 2013 to specify the title of the procedures promulgated by General Order M-387 and to state in the rule the link to the Court's website where practitioners may access the governing procedures. The procedures set forth in the Procedural Guidelines for Prepackaged Chapter 11 Cases, which also may be obtained from the Clerk, may be further amended by the Court after giving notice and opportunity for comment as is appropriate.

Rule 3019-1 MODIFICATION OF CHAPTER 11 PLAN BEFORE CLOSE OF VOTING

If the proponent of a chapter 11 plan files a modification of the plan after transmission of the approved disclosure statement and before the close of voting on the plan, the proponent must serve a copy of the plan, as modified, upon the debtor, the trustee, each committee, the United States Trustee, all entities directly affected by the proposed modification and such other entities as the Court may direct. On notice to such entities, the Court shall determine whether the modification adversely affects the treatment of the claim of any creditor or the interest of any equity security holder who has not accepted the modification in writing. If the Court determines that the modification is not adverse, the plan, as modified, shall be deemed accepted by all creditors and equity security holders who accepted the plan prior to modification. If the modification is adverse, the requirements of Bankruptcy Rule 3017 shall apply to the modified plan and any amendment of the disclosure statement necessitated by the modification.

Comment

This rule is derived from Former Local Bankruptcy Rule 56.

Pursuant to section 1127(a) of the Bankruptcy Code, the proponent of a chapter 11 plan may modify the plan at any time before confirmation. While Bankruptcy Rule 3019 governs modification of a plan after acceptance and before confirmation, this rule governs modification subsequent to the transmission of an approved disclosure statement and before the close of voting.

Rule 3020-1 TIME FOR OBJECTING TO CONFIRMATION IN CHAPTER 9 AND CHAPTER 11 CASES

Unless the Court orders otherwise, objections to confirmation of a plan in a chapter 9 or chapter 11 case must be filed not later than seven (7) days prior to the first date set for the hearing to consider confirmation of the plan.

Comment

This rule, which is derived from Former Local Bankruptcy Rule 57, designates a fixed time for objecting to confirmation as permitted by Bankruptcy Rule 3020(b)(1). The three (3) day deadline was amended to seven (7) days in 2009 to give the Court and the parties more time to consider objections before the confirmation hearing.

Former subdivision (b) of this rule required disclosure of the circumstances surrounding the withdrawal of, or failure to prosecute, any objections to confirmation. This subdivision was abrogated in 2013 so as to leave to the Court's discretion on a case-by-case basis whether to require disclosure, and the manner and extent of such disclosure, of the terms of any agreement between the plan proponent and the objecting party relating to the withdrawal of, or the failure to prosecute, an objection to confirmation of a plan.

Rule 3020-2 CONFIRMATION ORDER FORMAT

(a) The confirmation order must have the form of plan confirmed by the Court (including any changes made prior to the entry of the confirmation order) annexed as an exhibit to the confirmation order. If any provision has been modified since it was submitted to the Court, then the plan proponent shall submit to the Court an exhibit showing the changes that were made.

(b) The proposed order confirming a chapter 11 plan shall not reiterate any provision in the plan, unless (i) a modification is set forth in the order that is not included in the form of the plan that is attached to the order, or (ii) cause can be shown at the confirmation hearing to include a provision from the plan in the proposed order.

(c) The proposed order confirming a chapter 11 plan shall not reiterate the authorization to enter into, execute, or perform under the transactions contemplated in the plan or plan supplement.

(d) Except as necessary under Bankruptcy Rule 3020(c)(1) to describe plan injunctions against conduct not otherwise enjoined under the Bankruptcy Code or to support releases, settlements, contract or lease assumptions or contract modifications that are set forth in the plan, the proposed order confirming a chapter 11 shall not include any findings of facts or conclusions of law as to the satisfaction of the individual provisions of Sections 1122, 1123, 1125, 1126, 1129, and 1145 of the Bankruptcy Code except to the extent that such findings or conclusions are necessary to reflect the Court's rulings on issues that

actually were the subject of dispute. If the plan's satisfaction of particular requirements has not been disputed, it shall be sufficient to state that the facts and legal arguments set forth in the declarations and memoranda submitted by the parties, and in the evidence and argument at the confirmation hearing, show that those requirements for confirmation have been satisfied.

(e) The proposed order confirming a chapter 11 plan shall not include any recitals of the related procedural history of the chapter 11 case and shall not repeat any requested relief previously granted by the Court in an order.

(f) If a chapter 11 plan (including a plan in a subchapter V case) will not be immediately effective upon confirmation, then the confirmation order should include a provision requiring the debtor to send a notice to all parties in interest informing them that the plan has become effective, and to do so promptly after the effective date has occurred.

(g) The Court, by order, may modify any of the provisions of this Local Bankruptcy Rule as they relate to particular cases.

Comment

This rule was added in 2024 to encourage the use of "short form" orders of plan confirmation in chapter 11 cases and to eliminate unnecessary materials from such orders. Subdivision (f) sets forth a procedure by which notices of effective dates will be sent to all parties in interest in the event that plans are not immediately effective upon confirmation.

Rule 3021-1 POST-CONFIRMATION REQUIREMENTS IN CHAPTER 11 CASES

(a) Unless the Court orders otherwise, within fourteen (14) days after the entry of an order confirming a chapter 11 plan, the plan proponent or other responsible person under the plan must submit to the Court on presentment in accordance with Local Bankruptcy Rule 9074-1 a proposed order that shall contain a timetable with the steps proposed for achieving substantial consummation of the plan and entry of a final decree, including resolution of claims and resolution of avoidance and other bankruptcy court litigation outstanding or contemplated. The law firms or individuals responsible for safeguarding and accounting for the proceeds of all recoveries on behalf of the estate shall be identified therein.

(b) Unless the Court orders otherwise, the plan proponent or responsible person under the plan must submit to the Court a report whenever necessary, but no less than every six months after the entry of the order issued in accordance with subdivision (a) of this rule, identifying the actions taken under the order, the location of and steps taken to protect any funds or other property recovered on behalf of the estate, and any necessary revisions to the timetable.

(c) Unless the Court orders otherwise, as a condition to serving as a liquidating trustee or a successor trustee to a post confirmation liquidating, or similar trust, the liquidating plan

must specify what steps the trustee shall take to monitor and ensure the safety of the trusts' assets.

Comment

This rule is derived from former Standing Order M-111. Where the circumstances warrant, the Court has the discretion to alter the time periods prescribed herein. This rule was amended in 2004 to repeal former subdivision (b) and delete paragraph (3) of the former Post-Confirmation Order and Notice form contained in subdivision (c), each of which related to the post-confirmation requirement to pay to the Clerk any special charges that may be assessed by the Court. The Court no longer assesses such charges.

Paragraph (3) of the former Post-Confirmation Order and Notice form contained in subdivision (c) of this rule was amended in 2009 to change the time period from fifteen (15) to fourteen (14) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

This rule was amended in 2013 regarding post-confirmation requirements in chapter 11 cases. The "Post-Confirmation Order and Notice" form was abrogated.

Subsection (c) of this rule was added in 2016 to require the post-confirmation liquidating trustee to disclose the procedures that will be taken to secure the trusts' assets. Subsection (c) is not meant to expand or limit the scope of a trustee's fiduciary duties.

Rule 3022-1 CLOSING REPORTS IN CHAPTER 11 CASES

Unless the Court orders otherwise, within fourteen (14) days after the estate is fully administered and the Court has discharged any trustee serving in the case, the debtor, trustee or estate representative must file and serve upon the United States Trustee a closing report substantially in the form available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/3022-1-report.docx).

Comment

This rule was amended in 2009 to change the time period from fifteen (15) to fourteen (14) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy

Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

This rule was amended in 2013 to conform to section 350(a) of the Bankruptcy Code. Prior to its amendment, the rule required a closing report within fourteen (14) days following "substantial consummation," which required that distributions under the plan be commenced rather than completed. Despite substantial consummation, there may have remained unresolved claim allowance litigation, preference and fraudulent conveyance adversary proceedings, and other proceedings that should have been resolved before the case was closed. The amended language of this rule tracks section 350(a) on the closing of cases. This amended rule should give greater assistance to the Court, which is required by Bankruptcy Rule 3022 to enter a final decree closing the case after the estate is fully administered.

The amendment to this rule in 2013 also provides a link to the closing report form on the Court's website.

This rule was amended in 2016 to allow any estate representative to file and serve the closing report on the United States Trustee.

PART IV: THE DEBTOR: DUTIES AND BENEFITS

Rule 4001-1 RELIEF FROM AUTOMATIC STAY

(a) A party moving for relief from the automatic stay under section 362 of the Bankruptcy Code must obtain a return date for the motion that is not more than thirty (30) days after the date on which the motion will be filed.

(b) If the debtor is an individual, the motion must be supported by an affidavit, based on personal knowledge, attesting to the circumstances of any default with respect to an obligation related to the motion.

(c) If the debtor is an individual, a party moving for relief from the automatic stay under section 362 of the Bankruptcy Code relating to a mortgage on real property or a security interest in a cooperative apartment must file, as an exhibit to the motion, a completed copy of the form available on the Court's website at the following link (https://www.nysb.uscourts.gov/sites/default/files/pdf/362worksheetA.pdf). Compliance with this subdivision shall constitute compliance with subdivision (b) of this rule.

(d) Any order granting relief from the automatic stay to permit the continuation of a foreclosure action in the New York State courts regarding property of an estate must include the following terms, a sample form for which can be found on the Court's website at https://www.nysb.uscourts.gov/sites/default/files/4001-1_model_order.docx:

(i) that the party in whose favor such relief has been granted must (a) provide advance written notice to the trustee and debtor of any scheduled foreclosure sale, (b) provide contemporaneous written notice to the trustee and debtor of any referee's report of sale, and (c) provide written prompt notice to the trustee and debtor of any surplus moneys arising from the sale, as determined pursuant to section 1354 of the Real Property Actions and Proceedings Law;

(ii) that notwithstanding the provisions of section 1354(4) of the New York Real Property Actions and Proceedings Law, all surplus moneys constitute property of the bankruptcy estate that is subject to the exclusive jurisdiction of the Bankruptcy Court, and all such surplus proceeds shall be turned over to the trustee or debtor-in-possession for administration under the Bankruptcy Court's supervision; and

(iii) that notwithstanding the provisions of section 1354(4) of the New York Real Property Actions and Proceedings Law, any person claiming any entitlement to any portion of the surplus proceeds must do so in the Bankruptcy Court pursuant to the applicable terms of the Bankruptcy Code and the Bankruptcy Rules.

Comment

This rule is derived from Former Local Bankruptcy Rule 44(a)

Bankruptcy Rule 4001(a) provides that a request for relief from the automatic stay shall be made by motion. Section 362(e) of the Bankruptcy

Code contemplates that a hearing will commence within thirty (30) days from the date of the request for relief from the automatic stay. Local Bankruptcy Rule 9006-1 governs the time within which responsive papers may be served.

Subdivision (a) of this rule was amended in 2004 to put the burden of obtaining a timely return date on the movant. It does not attempt to deal with the ramifications of the movant's failure to comply with the rule.

Subdivision (b) of this rule was added in 2004 to assure the Court of the accuracy of allegations of default in cases concerning an individual debtor.

Subdivision (c) of this rule, which derives from General Order M-346 as amended by General Order M-347, was added in 2008 to assure the Court of the accuracy of allegations of default in proceedings relating to a mortgage on real property or a security interest in a cooperative apartment of an individual debtor. The Court may direct the submission of the form set forth in subdivision (c) of this rule in connection with other motions, including motions for adequate protection. In 2024, a link was added to this subdivision for ease of access to the form referenced in the rule.

Subdivision (d) of this rule was added in 2024 to address cases in which surplus proceeds remain after the conduct of foreclosure sales regarding property of an estate. The provisions ensure that the parties to the bankruptcy case have proper notice of the events in the foreclosure case and of the availability of surplus funds (if there are any), and further ensure that the Bankruptcy Court retains its proper jurisdiction over the distribution of those surplus proceeds and the resolution of claims to those surplus proceeds.

Rule 4001-1.1 PAYMENT AND CURE OF PRE-PETITION JUDGMENT OF POSSESSION INVOLVING RESIDENTIAL PROPERTY

(a) A debtor is deemed to have complied with section 362(l)(1) of the Bankruptcy Code by:

(1) Making the required certification by completing Official Form 101A, Initial Statement About An Eviction Judgment Against You, including the landlord's name and address; and

(2) Delivering to the Clerk, together with the Voluntary Petition (or within one day of the filing, if the Voluntary Petition is filed electronically) a certified or cashier's check or money order, made payable to the lessor, in the amount of any rent that would become due during the thirty-day period after the filing of the petition.

(b) If the debtor complies with the requirements set forth in subdivision (a), the Clerk shall, within one day, send notice of compliance to the lessor who shall then have the option,

exercisable no later than fourteen (14) days after the date of the notice, to consent to receive the check (in which event the lessor must provide payment instructions), or file an objection to the debtor's certification, which objection shall constitute a request for hearing. A lessor is deemed to have consented to receive the check if the lessor does not respond within the fourteen (14) day deadline, in which event the Clerk shall send the check to the lessor at the address set forth in the debtor's certification.

Comment

This rule was added in 2013 to include in the Local Bankruptcy Rules the requirements established by General Order M-385, which relate to the requirements set forth in section 362(l)(1) of the Bankruptcy Code. General Order M-385 was abrogated and replaced by this local rule in 2013. This rule was amended in 2015 to conform to the new Official Form 101A, Initial Statement About An Eviction Judgment Against You, effective December 1, 2015.

Rule 4001-2 REQUESTS FOR USE OF CASH COLLATERAL OR TO OBTAIN CREDIT

(a) *Contents of Motions.* The following provisions enumerated below, to the extent applicable, are added to the enumerated lists of material provisions set forth in Bankruptcy Rule 4001(b)(1)(B), (c)(1)(B), and (d)(1)(B). These provisions should be prominently highlighted and easily identified in the motion; failure to do so may result in such provisions being deemed denied by the Court:

(1) the amount of cash collateral the party seeks permission to use or the amount of credit the party seeks to obtain, including any committed amount or the existence of a borrowing base formula and the estimated availability under such formula;

(2) material conditions to closing and borrowing limitations or restrictions, including budget provisions and financial covenants;

(3) pricing and economic terms, including interest, original issue discount, letter of credit fees, unused line fees, commitment fees, make whole or other premium, any other fees, and the treatment of costs and expenses of the lender(s), any agent for the lender(s), and their respective professionals;

(4) any effect on existing liens of the granting of collateral or adequate protection provided to the lender(s) and any priority or superpriority provisions, including whether the non-consensual priming of liens is contemplated;

(5) any carve-outs from liens or superpriority provisions;

(6) any cross-collateralization provision or other provision that elevates prepetition debt to administrative expense (or higher) status or that secures prepetition debt with liens on postpetition assets (which liens the creditor would not otherwise have by virtue of the prepetition security agreement or applicable law);

(7) any rollup provision that applies the proceeds of postpetition financing to pay, in whole or in part, prepetition debt or which otherwise has the effect of converting prepetition debt to postpetition debt, including (i) the ratio of the total amount of rolled-up debt to the total amount of credit committed and (ii) the amount of the rollup to be approved on an interim versus final basis;

(8) any provision that would limit the Court's power or discretion in a material way, or would interfere with the exercise of the fiduciary duties, or restrict the rights and powers, of the trustee, debtor in possession, or a committee appointed under sections 1102 or 1114 of the Bankruptcy Code, or any other fiduciary of the estate, in connection with the operation, financing, use or sale of the business or property of the estate, but excluding any agreement to repay postpetition financing in connection with a plan or to waive any right to incur liens that prime or are *pari passu* with liens granted under section 364 of the Bankruptcy Code;

(9) any limitation on the lender's obligation to fund certain activities of the trustee, the debtor in possession or a committee appointed under sections 1102 or 1114 of the Bankruptcy Code;

(10) termination or default provisions, including events of default, any effect of termination or default on the automatic stay or the lender's ability to enforce remedies, any cross-default provision, and any terms that provide that the use of cash collateral or the availability of credit will cease on (i) the filing of a challenge to the lender's prepetition lien or the lender's prepetition claim based on the lender's prepetition conduct; (ii) entry of an order granting relief from the automatic stay other than an order granting relief from the stay with respect to material assets; (iii) the grant of a change of venue with respect to the case or any adversary proceeding; (iv) management changes or the departure, from the debtor, of any identified employees; (v) the expiration of a specified time for filing a plan; (vi) the making of a motion by a party in interest seeking any relief (as distinct from an order granting such relief), or (vi) the termination of any transaction support agreement (or similar agreement);

(11) any change-of-control provisions;

(12) any provision establishing a deadline or milestone;

(13) any prepayment penalty or other provision that affects the debtor's right or ability to repay the financing in full during the course of the chapter 11 reorganization case;

(14) in jointly administered cases, terms that govern the joint liability of the debtors including any provisions that would govern the nature and/or priority, if any, of any interdebtor claims that would result if a debtor were to repay debt incurred by or for the benefit of another debtor;

(15) any provision for the funding of non-debtor affiliates with cash collateral or proceeds of the loan, as applicable, and the approximate amount of such funding;

(16) any provisions that require the debtor to pay an agent's or lender's expenses and attorney's fees in connection with the proposed financing or use of cash collateral, without any notice or review by the Office of the United States trustee, the committee appointed under section 1102 of the Bankruptcy Code (if formed) or, upon objection by either of the foregoing parties, the Court;

(17) defined terms must either be defined in the motion or the motion shall include a specific reference to where the terms are defined in the applicable loan agreements or proposed order;

(18) any provision providing for the reaffirmation of the prepetition loan agreement or the covenants of such agreement;

(19) any commitment to roll any portion of the financing into exit financing and any rights to convert the financing or purchase equity of the reorganized debtor;

(20) any provision waiving any rights under section 506(c), the doctrine of marshalling, or the equities of the case doctrine under section 522(b), waiving the right to challenge a credit bid for cause under section 363(k), or the granting of a lien on or recovery of proceeds of any avoidance action;

(21) the proposed release of any claims and any provision described in subsection (g)(4) of this Local Rule (including a detailed explanation for any such provision); and

(22) any other limitation on the use of cash collateral or proceeds of any financing, including the ability to refinance the financing.

(b) *Disclosure of Efforts to Obtain Financing and Good Faith*. A motion seeking authority to obtain credit shall describe in general terms the efforts of the trustee or debtor in possession to obtain financing, the basis on which the debtor determined that the proposed financing is on the best terms available, and material facts bearing on the issue of whether the extension of credit is being extended in good faith.

(c) *Amount of Any Interim Relief.* A motion that seeks entry of an emergency or interim order before a final hearing under Bankruptcy Rule 4001(b)(2) or (c)(2) shall describe the amount and purpose of funds sought to be used or borrowed on an emergency or interim basis and shall set forth facts to support a finding that immediate or irreparable harm will be caused to the estate if immediate relief is not granted before the final hearing. A single motion may be filed seeking entry of an interim order and a final order, which orders would be normally entered at the conclusion of the preliminary hearing and the final hearing, respectively, as those terms are used in Bankruptcy Rules 4001(b)(2) and (c)(2); *provided* that the proposed form of final order, together with a redline marked against the interim order, shall be filed with the Court no later than three calendar days before the deadline fixed by the Court for objections to the final order.

(d) *Adequacy of Budget And Compliance with Financial Covenants*. If the debtor in possession or trustee will be subject to a budget and/or financial covenants under a proposed cash collateral or financing order or agreement, the motion filed under Bankruptcy Rule 4001(b), (c), or (d) shall include a copy of such budget, a statement

identifying any variance limitations under the proposed use of cash collateral or financing, a statement by the trustee or debtor in possession as to whether it has reason to believe that it will comply with the financial covenants and that the budget will be adequate, considering all available assets, to pay all administrative expenses due or accruing during the period covered by the financing or the budget.

(e) *Notice*. Notice of a preliminary or final hearing shall be given to the persons required by Bankruptcy Rules 4001(b)(3) and 4001(c)(3), as the case may be, the United States Trustee, and any other persons whose interests may be directly affected by the outcome of the motion or any provision of the proposed order.

(f) *Presence at Hearing*. Unless the court directs otherwise,

(1) counsel for each proposed lender, or for an agent representing such lender, shall be present at all preliminary and final hearings on the authority to obtain credit from such lender, and counsel for each entity, or for an agent of such entity, with an interest in cash collateral to be used with the entity's consent shall be present at all preliminary and final hearings on the authority to use such cash collateral; and

(2) a business representative of the trustee or debtor in possession, the proposed lender or an agent representing such lender, and any party objecting to the motion for authority to obtain credit, each with appropriate authority, must be present at, or reasonably available by telephone for, all preliminary and final hearings for the purpose of making necessary decisions with respect to the proposed financing.

(g) *Required Sections and Provisions in the Proposed Order.*

(1) *Jurisdiction*. The proposed order shall identify the basis for the Court's jurisdiction over the matter.

(2) *Findings of Fact.*

(A) A proposed order approving the use of cash collateral under Section 363(c) of the Bankruptcy Code, or granting authority to obtain credit under section 364 of the Bankruptcy Code, shall limit the recitation of findings to essential facts, including the facts required under section 364 of the Bankruptcy Code regarding efforts to obtain financing on a less onerous basis and (where required) facts sufficient to support a finding of good faith under section 364(e) of the Bankruptcy Code, and shall not include any findings extraneous to the use of cash collateral or to the financing.

(B) A proposed emergency or interim order shall include a finding that immediate and irreparable loss or damage will be caused to the estate if immediate financing is not obtained and should state with respect to notice only that the hearing was held pursuant to Bankruptcy Rule 4001(b)(2) or (c)(2), that notice was given to certain parties in the manner described, and that the notice was, in the debtor's belief, the best available under the circumstances.

(C) A proposed final order may include factual findings as to notice and the adequacy thereof.

(D) To the extent that a proposed order incorporates by reference to, or refers to a specific section of, a prepetition or postpetition loan agreement or other document, the proposed order shall also include a statement of such section's import.

(3) *Mandatory Provisions*. The proposed order shall contain all applicable provisions included in the enumerated lists of material provisions set forth in Bankruptcy Rule 4001(b)(1)(B), (c)(1)(B) and (d)(1)(B), as supplemented by subsection (a) of this Local Bankruptcy Rule.

(4) *Stipulations and Investigation Period*. The proposed order may contain language where the debtor stipulates, acknowledges or otherwise admits to the validity, enforceability, priority or amount of a claim that arose before the commencement of the case, or of any lien securing the claim; however, such stipulations, acknowledgements, or admissions shall not be listed as "factual findings" by the Court. If such stipulations, acknowledgements, or admissions are included in the proposed order, either the proposed order shall include a provision that permits a committee appointed under section 1102 of the Bankruptcy Code and other parties in interest to undertake an investigation of the facts relating thereto, and proceedings relating to such determination (or the motion shall explain why the proposed order does not contain such a provision) until at least::

(A) sixty (60) days after the appointment of the committee of unsecured creditors appointed under section 1102 of the Bankruptcy Code (or such longer period as the Court orders for cause shown before the expiration of such period) to investigate the facts and file a complaint or a motion seeking authority to commence litigation as a representative of the estate; or

(B) if no such committee has been appointed, seventy-five (75) days (or such longer period as the Court orders for cause shown before the expiration of such period) from the entry of the interim order to investigate the facts and file a complaint or a motion seeking authority to commence litigation as a representative of the estate;

provided that, the foregoing periods may be shortened for cause shown, including in prepackaged or prearranged cases.

(5) *Cross-Collateralization, Rollups and Credit Bidding.* A proposed order approving cross-collateralization, a rollup or a right to credit bid a rollup shall include language that reserves the right of the Court to unwind or partially unwind, after notice and hearing, the postpetition protection provided to the prepetition lender or the pay down of the prepetition debt, whichever is applicable, in the event that there is a timely and successful challenge to the validity, enforceability, extent, perfection or priority of the prepetition lender's claims or liens, and/or a determination that the prepetition debt was undersecured as of the petition date,

and as a result of which, in each case, the cross-collateralization or rollup unduly advantaged the lender.

(6) *Waivers, Consents or Amendments with Respect to the Loan Agreement*. A proposed order may permit the parties to enter into waivers or consents with respect to the loan agreement without the need for further court approval, and a proposed order may permit the parties to enter into amendments thereof without the need for further court approval, provided that (i) the agreement as amended is not materially different from that approved, (ii) notice of all amendments is filed with the Court, and (iii) notice of all amendments (other than those that are ministerial or technical and do not adversely affect the debtor) are provided in advance to counsel for any committee appointed under sections 1102 or 1114 of the Bankruptcy Code, all parties requesting specific notice and the United States Trustee.

(7) *Conclusions of Law*. A proposed interim order may provide that the debtor is authorized to enter into the loan or other agreement, but the proposed order shall state that to the extent that a loan or other agreement differs from the order, the order shall control.

(8) *Statutory Provisions Affected*. The proposed order shall specify those provisions of the Bankruptcy Code, Bankruptcy Rules and Local Bankruptcy Rules relied upon as authority for granting relief, and shall identify those sections that are, to the extent permitted by law, being limited or abridged.

(9) *Limitations on Interim Relief*. Unless expressly and separately addressed by the Court, an interim order approving use of cash collateral or obtaining credit may not contain, and any application requesting such provisions in an interim order shall be deemed denied, with respect to any provisions waiving any rights under section 506(c), the doctrine of marshalling, a lien on or recovery of proceeds of any avoidance action or the equities of the case doctrine under section 552(b).

(10) *Enforcement and Remedies.* The proposed order may specify the events and consequences of default.

(A) *Order to Obtain Credit.* If the proposed order contains a provision that modifies or terminates the automatic stay or permits the lender to enforce remedies after an event of default, either the proposed order shall require at least seven (7) days' notice to the trustee or debtor in possession, the United States Trustee and each committee appointed under sections 1102 or 1114 of the Bankruptcy Code (or the largest creditors if no committee has been appointed under section 1102 of the Bankruptcy Code), before the modification or termination of the automatic stay or the enforcement of the lender's remedies, or the motion shall explain why such notice provision is not contained in the proposed order.

(B) *Order on Cash Collateral.* If the proposed order contains a provision that terminates the use of cash collateral, either the proposed order shall require at least five (5) days' notice before the use of cash collateral ceases

(provided that the use of cash collateral conforms to any budget in effect) or the motion shall explain why such notice provision is not contained in the proposed order.

(11) *Carve-Outs*. Any provision in a proposed order relating to a carve-out from liens or super priorities shall disclose when a carve-out takes effect, whether it remains unaltered after payment of interim fees made before an event of default, and any effect of the carve-out on any borrowing base or borrowing availability under the postpetition loan. If a provision relating to a carveout provides disparate treatment for the professionals retained by a committee appointed under sections 1102 or 1114 of the Bankruptcy Code, when compared with the treatment for professionals retained by the trustee or debtor in possession, or if the carve-out does not include fees payable to either the Bankruptcy Court or the United States Trustee, reasonable expenses of committee members (excluding fees and expenses of professionals employed by such committee members individually), and reasonable post-conversion fees and expenses of a chapter 7 trustee, or if a carve-out does not include the costs of investigating whether any claims or causes of action against the lender exist, there shall be disclosure thereof under subdivision (a) of this Local Bankruptcy Rule and the motion shall contain a detailed explanation of the reasons therefor.

(12) *Joint Obligations*. In jointly-administered cases, if one or more debtors will be liable for the repayment of indebtedness for funds advanced to or for the benefit of another debtor, the proposed order shall describe, with specificity, any provisions of the agreement or proposed order that would affect the nature and priority, if any, of any inter-debtor claims that would result if a debtor were to repay debt incurred by or for the benefit of another debtor.

(13) *Conclusions of Law Regarding Notice*. A proposed final order may contain conclusions of law with respect to the adequacy of notice under section 364 of the Bankruptcy Code and Bankruptcy Rule 4001.

(h) Drafting Recommendations With Respect to Proposed Order. To facilitate the Court's review and the uniform application of common provisions regarding the proposed use of cash collateral and financings, the following is recommended:

(1) Generally speaking, the proposed order should be concise and avoid superfluous language and undue length;

(2) Defined terms should be listed in an annex attached to the proposed order, include a specific reference to where such term is defined, and, to the extent prudent, cross-reference defined terms utilized in the underlying loan agreement;

(3) Factual findings should not be duplicative and should be limited to those necessary to support the relief requested; and

(4) Counsel is referred to the illustrative and non-binding model form of order set forth on the Court's website at https://www.nysb.uscourts.gov/sites/default/files/4001-2_model_order.docx.

Comment

This rule was amended in its entirety in 2008 to conform to the 2007 amendments to Bankruptcy Rule 4001 and to replace the procedures for requests for the use of cash collateral or to obtain credit that were governed by former General Order M-274. Thus, this rule should be read in conjunction with Bankruptcy Rule 4001 as the requirements contained in this rule are meant to supplement, but not duplicate, Bankruptcy Rule 4001. This rule is not intended to fundamentally change practice under former General Order M-274, except as expressly provided.

As provided in former General Order M-274, a single motion may be filed seeking entry of an interim order and a final order, which orders would be normally entered at the conclusion of the preliminary hearing and the final hearing, respectively, as those terms are used in Bankruptcy Rules 4001(b)(2) and (c)(2). In addition, where circumstances warrant, the debtor may seek emergency relief for financing limited to the amount necessary to avoid immediate and irreparable harm to the estate pending the preliminary hearing, but in the usual case, only a preliminary and a final hearing will be required.

Notwithstanding the provisions of subsection (i), emergency and interim relief may be entered after the best notice available under the circumstances; however, emergency and interim relief will **ordinarily** not be considered unless the United States Trustee and the Court have had a reasonable opportunity to review the motion, the financing agreement, and the proposed interim order, and the Court normally will not approve provisions that directly affect the interests of landlords, taxing and environmental authorities and other third-parties without notice to them.

As suggested in former General Order M-274, prospective debtors may provide substantially complete drafts of the motion, interim order, and related financing documents to the United States Trustee in advance of a filing, on a confidential basis. Debtors are encouraged to provide drafts of financing requests, including proposed orders, to the United States Trustee as early as possible in advance of filing to provide that office with the opportunity to comment.

The hearing on a final order for use of cash collateral under section 363(c) of the Bankruptcy Code, or for authority to obtain credit under section 364 of the Bankruptcy Code will ordinarily not commence until there has been a reasonable opportunity for the formation of a creditors committee under section 1102 of the Bankruptcy Code and either the creditors committee's appointment of counsel or reasonable opportunity to do so.

Reasonable allocations in a carve-out provision may be proposed among (i) expenses of professionals retained by committees appointed in

the case, (ii) expenses of professionals retained by the debtor, (iii) fees payable to either the Court or the United States Trustee, (iv) the reasonable expenses of committee members, and (v) reasonable post-conversion fees and expenses of a chapter 7 trustee, and the lender may refuse to include in a carve-out the costs of litigation or other assertions of claims against it.

As provided in former General Order M-274, non-essential facts regarding pre-petition dealings and agreements may be included in an order approving the use of cash collateral or granting authority to obtain credit under a heading entitled "stipulations between the debtor and the lender" or "background"," but should not be presented as findings of fact by the Court.

As provided in former General Order M-274, an interim order will not ordinarily bind the Court with respect to the provisions of the final order provided that (i) the lender will be afforded all the benefits and protections of the interim order, including a lender's section 364(e) and 363(m) protection with respect to funds advanced during the interim period, and (ii) the interim order will not bind the lender to advance funds pursuant to a final order that contains provisions contrary to or inconsistent with the interim order.

Subdivision (c)(1) of this rule was amended in 2009 to change the time period from five (5) to seven (7) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time period will end on a Saturday or Sunday.

The deadlines in subdivisions (c)(1) and (c)(2) of this rule were also amended in 2009 to delete the references to "business" days so that the time periods will be computed by calendar days, consistent with the 2009 Amendments to Bankruptcy Rule 9006(a). The three (3) day deadline in subdivision (c)(2) of this rule was amended in 2009 to change the time to five (5) days to compensate for the change in the computation of time under the 2009 amendments to Bankruptcy Rule 9006(a).

This rule was amended in 2017 to clarify and expand the list of items that must be identified with specificity in financing motions and orders, to identify the consequences of failing to comply with the requirements of the rule, to conform challenge periods to customary practice and to make a number of other updating and clarifying changes that are consistent with current practice.

The rule was further amended in 2024 to add to the list of items to be identified with specificity in financing motions and orders, and also to include reference to a model format for proposed orders.

Rule 4002-1 DUTIES OF DEBTORS – PROCEDURES RELATING TO THE IMPLEMENTATION OF BANKRUPTCY CODE SECTION 521

(a) *Payment Advices Required by Section 521(a)(1)(B)(iv)*. In a chapter 7, chapter 12 or chapter 13 case in which the debtor is an individual, copies of payment advices or other evidence of current income made available to the trustee under Bankruptcy Rule 4002(b)(2) shall not be filed with the Court.

(b) *Request by Party in Interest for an Order of Dismissal under Section 521(i)(2).* If a party in interest requests an order of dismissal under section 521(i)(2) of the Bankruptcy Code, the following procedures shall apply:

(1) The party in interest must serve a copy of the request on the debtor's attorney and the debtor at the same time that the party in interest sends the request to the Court.

(2) If the debtor objects to the request within seven (7) days of service, the debtor's objection will be treated as a request for a hearing, which the Court shall schedule promptly.

(3) No order of dismissal will be entered until the debtor's objection has been resolved, except that nothing herein shall affect the right of any party in interest to seek dismissal, or the authority of the Court to dismiss the case, pursuant to any other provision of applicable bankruptcy law.

Comment

This rule was amended in 2013 to include in the Local Bankruptcy Rules the provisions contained in General Order M-382, relating to section 521(a)(1)(B)(iv) and section 521(i)(2) of the Bankruptcy Code. Subdivision (a) of this rule expands the scope of General Order M-382 by making it applicable chapter 12 cases, as well as in chapter 7 and chapter 13 cases and is amended further to conform to, and not duplicate, Bankruptcy Rule 4002(b). General Order M-382 was abrogated and replaced by this local rule in 2013.

Rule 4003-1 EXEMPTIONS

(a) *Amendment to Claim of Exemptions*. An amendment to a claim of exemptions pursuant to Bankruptcy Rules 1009 and 4003 shall be filed and served by the debtor or dependent of the debtor on the trustee, the United States Trustee and all creditors.

(b) *Automatic Extension of Time to File Objections to Claim of Exemptions In Event of Amendment to Schedules to Add a Creditor.* Unless the Court orders otherwise, if the schedules are amended to add a creditor, and the amendment is filed and served either (i)

fewer than thirty (30) days prior to the expiration of the time set forth in Bankruptcy Rule 4003(b) for the filing of objections to the list of property claimed as exempt, or (ii) at any time after such filing deadline, the added creditor shall have thirty (30) days from the date of service of the amendment to file an objection to the list of property claimed as exempt.

Comment

Subdivision (a) of this rule is derived from Former Local Bankruptcy Rule 37. See Bankruptcy Rule 4003(b), which permits the trustee or any creditor to object to the list of property claimed as exempt within thirty (30) days following the conclusion of the meeting of creditors held pursuant to Bankruptcy Rule 2003(a), or the filing of any amendment to the list or supplemental schedules unless, within such period, the Court grants additional time.

Rule 4004-2 DEBTOR'S CERTIFICATION CONCERNING DOMESTIC SUPPORT OBLIGATIONS IN A CASE UNDER CHAPTER 12 OR CHAPTER 13

(a) Subsections (b), (c) and (d) of this rule only apply to a chapter 12 or chapter 13 debtor who is or was required to pay a domestic support obligation by a judicial or administrative order or by statute during the pendency of his or her bankruptcy case.

(b) In a chapter 12 or chapter 13 case in which the debtor has or had a duty to pay a domestic support obligation during the pendency of the case, within thirty (30) days before the date on which the last payment is due under the plan, or when the debtor files a motion to request a hardship discharge under section 1228(b) or section 1328(b) of the Bankruptcy Code, whichever is earlier, the Standing Trustee must furnish the debtor with a Debtor's Certification Regarding Domestic Support Obligation in Support of Discharge in a Chapter 12 or Chapter 13, which shall be available on the Court's website (http://www.nysb.uscourts.gov/forms).

(c) The debtor must complete, sign, and return to the Standing Trustee the Debtor's Certification Regarding Domestic Support Obligation in Support of Discharge in a Chapter 12 or Chapter 13 when submitting the check for the last payment under the chapter 12 or chapter 13 plan or, if the debtor has filed a motion to request a hardship discharge, no later than the date of the hearing on the debtor's motion. In a joint case, each debtor must complete and sign a separate Debtor's Certification Regarding Domestic Support Obligation in Support of Discharge in a Chapter 12 or Chapter 13.

(d) The Standing Trustee shall attach the completed Debtor's Certification Regarding Domestic Support Obligation in Support of Discharge in a Chapter 12 or Chapter 13 when electronically filing the Notice of Request for a Discharge or, in a case in which the debtor seeks a hardship discharge, shall otherwise make it available on the docket of that case.

Comment

This rule was added in 2013 to include in the Local Bankruptcy Rules the provisions established by General Order M-338, relating to the debtor's certifications regarding domestic support obligations. Though General Order M-338 provided that the Standing Trustee "should" furnish the debtor with the certification form, and "should" attach the completed form to the Notice of Request for a Discharge, this rule makes these provisions mandatory. General Order M-338 was abrogated and replaced by this local rule in 2013.

This rule was amended in 2015 to conform to the renumbering of the Director's Procedural Form B2830, Chapter 13 Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q), effective December 1, 2015.

This rule was amended in 2017 to clarify that it applies only to cases where the debtor is or was required to pay domestic support obligations by judicial or administrative order or by statute. It also substituted a local form in lieu of the national form of certification in support of discharge.

Rule 4007-2 WITHDRAWAL OR SETTLEMENT OF PROCEEDINGS TO DETERMINE DISCHARGE AND DISCHARGEABILITY

(a) *Withdrawal of Complaint.* In the event of the withdrawal of a complaint objecting to discharge or failure to prosecute an adversary proceeding objecting to discharge, no discharge shall be granted unless the debtor shall make and file an affidavit and the debtor's attorney shall make and file a certification that no consideration has been promised or given, directly or indirectly, for the withdrawal or failure to prosecute.

(b) *Settlement of Proceedings.* In all instances not governed by section 524(d) of the Bankruptcy Code, no adversary proceeding to determine the dischargeability of a debt shall be settled except pursuant to an order of the Court after due inquiry into the circumstances of any settlement, including the terms of any agreement entered into between the debtor and creditor relating to the payment of the debt, in whole or in part.

Comment

This rule is derived from Former Local Bankruptcy Rule 48.

Rule 4008-1 REAFFIRMATION AGREEMENTS

A person filing a reaffirmation agreement shall adhere to the Guidelines for Filing a Reaffirmation Agreement in the Southern District of New York, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/4008-1-guidelines.pdf).

Comment

This rule was added in 2013 to include in the Local Bankruptcy Rules the requirements established by General Order M-404, relating to reaffirmation agreements. The procedures set forth in the Guidelines for Filing a Reaffirmation Agreement in the Southern District of New York may be amended by the Court after giving notice and opportunity for comment as is appropriate. The Guidelines, which are available on the Court's website, also may be obtained from the Clerk.

PART V: COURTS AND CLERKS

Rule 5001-1 CLERK'S OFFICE: HOURS; AFTER HOURS FILING

Unless otherwise posted on the Court's website, the offices of the Clerk shall be open Monday through Friday, from 8:30 a.m. to 5:00 p.m., except on legal and Court holidays, and shall be closed on Saturdays and Sundays. When the Clerk's Office is closed, papers not filed electronically may be filed with the Court by depositing them in the night depository maintained by the District Clerk and are deemed filed as of the date and time stamped thereon. Any required fees for such filings shall be delivered to the Clerk's Office no later than noon on the next business day.

Comment

This rule is derived from Former Local Bankruptcy Rule 8 as modified to conform to Civil Rule 1.2 of the Local District Rules.

Bankruptcy Rule 5001(c) permits the adoption of a local rule setting forth the business hours of the Clerk.

The District Clerk maintains a night depository at the United States Courthouse located at 500 Pearl Street, New York, New York. The filing of papers in the District Court's night depository is intended to be used where exigent circumstances exist and is not intended as a regular alternative for filing papers with the Court during normal business hours or electronically at any time.

Under Former Local Bankruptcy Rule 8, papers filed in the District Court's night depository were deemed filed in the Court as of 8:30 a.m. the following business day. In accordance with Civil Rule 1.2 of the Local District Rules and Greenwood v. New York, 842 F.2d 636 (2d Cir. 1988), this rule deems papers deposited in the District Court's night depository to have been filed as of the date and time stamped thereon.

The next business day deadline in this rule was amended in 2009 to delete the reference to "business" so that the time period will be consistent with the 2009 amendments to Bankruptcy Rule 9006(a).

This rule was amended in 2013 to clarify that the times and days when the Clerk's Office is opened may be altered as posted on the Court's website.

Rule 5005-1 FILING PAPERS

Except as provided in Local Bankruptcy Rule 1002-1, unless submitted by electronic means, all papers may be submitted for filing in the Clerk's office located in any of the three divisions of the Court identified in Local Bankruptcy Rule 1073-1(a). However, all chambers

copies required by Rule 9070-1(b) must be submitted in the Clerk's office located where the Judge assigned to the case or proceeding sits.

Comment

This rule is derived from Former Local Bankruptcy Rule 9(a).

Rule 5005-2 FILING BY ELECTRONIC MEANS

Unless the Court directs otherwise, all attorneys practicing in the Court, including attorneys admitted pro hac vice, are required to file all pleadings, motions, or other documents (except documents to be placed under seal) by electronic means, and all such documents required to be signed or verified shall be signed or verified by electronic means, in each case consistent with the Procedures for the Filing, Signing, and Verification of Documents by Electronic Means issued by the Court, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/5005-2-procedures.pdf). If electronic filing, signing, or verification is not feasible in a particular situation, the Court may provide reasonable accommodation or excuse the requirement that documents be filed, signed, or verified by electronic means under the particular circumstances.

Comment

This rule, which implements the authority contained in Bankruptcy Rule 5005(a), was amended in 2013 to clarify that all attorneys practicing in the Court are required to file, sign, and verify pleadings, motions, and other documents by electronic means, unless the Court directs otherwise in a particular case or the document is filed under seal.

This rule was also amended in 2013 to specify the title of the procedures promulgated by General Order M-399 and to state in the rule the link to the Court's website where practitioners may access the governing procedures governing filing, signing, and verifying papers by electronic means. The procedures also may be obtained from the Clerk. It is anticipated that these guidelines will be amended from time to time To account for changes in technology or the law.

Rule 5005-3 PAYMENT OF COURT FEES

(a) Unless another form of payment is required by the Court, filers must pay by credit card, through the CM/ECF system, all applicable filing fees at the time of filing or by the end of the day on which the filing occurred.

(b) If fees are not paid within four days of the date incurred, the filer will be locked out of the CM/ECF system until full payment is made.

Comment

This rule was added in 2013 to state the means and timing regarding payment of the filing fees, as well as the consequences of a failure to pay such fees.

Rule 5009-1 FINAL REPORT AND ACCOUNT AND CLOSING REPORT IN A CHAPTER 7 CASE

(a) *Final Report and Account.* Unless the Court orders otherwise, the notice given by the trustee of the filing of a final report and account in the form prescribed by the United States Trustee in a chapter 7 case must have on its face in bold type the following language, or words of similar import:

A person seeking an award of compensation or reimbursement of expenses must file an application with the clerk and serve a copy on the trustee and the United States Trustee not later than twenty-one (21) days prior to the date of the hearing on the trustee's final account. Failure to file and serve such an application within that time may result in the disallowance of fees and expenses.

(b) *Closing Report in an Asset Case.* Unless the Court orders otherwise, in a chapter 7 asset case, the trustee must file and serve upon the United States Trustee, together with the affidavit of final distribution, a closing report substantially in the form available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/5009-1-b-report.docx).

(c) *Closing Report in a No Asset Case.* In a chapter 7 no asset case, the trustee must file a No Distribution Report as a virtual docket text entry in accordance with the guidelines promulgated by the Office of the United States Trustee.

Comment

Subdivision (a) of this rule is derived from former Standing Order M-90.

Subdivisions (b) and (c) of this rule, added in 1996, complement section 704(a)(9) of the Bankruptcy Code. Although not specifying a particular time period, subdivision (b) of this rule contemplates that the trustee will file the closing report as soon as practicable after the filing of a final account and the final allowance of fees. Thereafter, the Clerk may close the case upon the entry of a final decree.

Subdivision (a) of this rule was amended in 2009 to change the time period from twenty (20) to twenty-one (21) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so

that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Subsection (c) of this rule was amended in 2013 to clarify that a separate form need not be attached to the "No Distribution" docket entry in a no asset chapter 7 case.

Subsection (a) was stylistically revised in 2016 to offset the warning language required. No substantive change was intended.

Rule 5009-2 CLOSING A CHAPTER 15 CASE

(a) *Closing the Case.* In a case under chapter 15 of the Bankruptcy Code, the Court shall close the case when there is a presumption under Bankruptcy Rule 5009(c) that the case has been fully administered or the Court, after notice and a hearing, determines that the purpose of the foreign representative's appearance in the chapter 15 case has been completed, whichever is earlier.

(b) *Reopening the Case.* A case under chapter 15 may be reopened to provide appropriate relief to the foreign representative or for other cause.

Comment

This rule was added in 2013 to provide for the closing of a chapter 15 case, as well as reopening a case for cause.

The Bankruptcy Code and Bankruptcy Rules impose certain reporting requirements on the foreign representative so that the Court is aware of the status of the case. In particular, section 1518 of the Bankruptcy Code imposes on the foreign representative the duty to promptly file a notice informing the Court of any substantial change in the status of the foreign proceeding or of the foreign representative's appointment, and of any other foreign proceeding regarding the debtor. Bankruptcy Rule 2015(e) requires the filing of such reports within 14 days after the foreign representative becomes aware of such information. Under Bankruptcy Rule 5009(c), the foreign representative is also required to file and transmit to the United States Trustee a final report describing the nature and results of the foreign representative's activities in the Court when the purpose of the foreign representative's appearance in the Court is completed, and to give notice of the report to certain parties. The foreign representative must file a certificate with the Court certifying that such notice has been given. Under Bankruptcy Rule 5009(c), if no objection has been filed within thirty (30) days after the certificate is filed, there is a presumption that the case has been fully administered. At that time, the case should be closed. However, even in the absence of a certificate, the Court has the discretion, after notice and a hearing, to close

the case if it finds that the purpose of the foreign representative's appearance in the case has been completed.

Rule 5010-1 REOPENING CASES

(a) *Contents of Motion.* A motion to reopen a case pursuant to Bankruptcy Rule 5010 must be in writing and state the name of the Judge to whom the case was assigned at the time it was closed.

(b) *Reference.* A motion to reopen a case shall be filed with the Clerk. The Clerk shall refer the motion to the Judge to whom the case was assigned at the time it was closed. If that Judge is no longer sitting, the motion shall be assigned in accordance with Local Bankruptcy Rule 1073-1.

Comment

This rule is derived from Former Local Bankruptcy Rule 11

Rule 5011-1 WITHDRAWAL OF REFERENCE

A motion for withdrawal of the reference shall be filed with the Clerk of the Court. An original and three (3) copies of the District Court Civil Cover Letter Sheet shall be submitted to the Court. The Clerk of the Court will transmit the motion and supporting documents to the District Court. The movant shall obtain from the Clerk of the Court the District Court civil case number and name of the District Judge assigned to the motion.

Comment

This rule was amended in 2004 to specify the procedural requirements imposed on the party moving for withdrawal of the reference under 28 U.S.C. §157(d).

This rule was amended in 2013 to clarify that the Clerk now opens the motion to withdraw the reference on the District Court's electronic filing system. The movant must obtain the District Court civil case number and name of the District Judge assigned to the motion from the Clerk.

This rule was amended in 2017 to reflect the current practice in this Court. Additionally, the District Court no longer requires paper copies from the movant of the motion and other documents previously listed and only requires paper copies of the Civil Cover Sheets.

Rule 5070-1 OBTAINING A RETURN DATE

Unless the Court orders otherwise, prior to serving a motion, cross-motion, or application, the moving party or applicant must obtain a return date from the assigned Judge's chambers.

Comment

This rule is derived from former Standing Order M-99. Pursuant to Local Bankruptcy Rule 9004-2(b), the return date obtained under this rule must be included in the upper right-hand corner of the caption of the motion or application.

The title of this rule was amended in 2016. No substantive change was intended.

Rule 5073-1 PHOTOGRAPHING, BROADCASTING, AND TELEVISING IN COURTROOMS AND ENVIRONS

The taking of photographs and the use of recording devices in a courtroom or its environs, except by officials of the Court in the conduct of the Court's business, and radio or television broadcasting from a courtroom or its environs, during the progress of, or in connection with, judicial proceedings or otherwise, whether or not the Court is actually in session, are prohibited.

Comment

This rule is derived from Former Local Bankruptcy Rule 35 and is an adaptation of Civil Rule 1.8 of the Local District Rules. This rule extends the District Court's restrictions to all bankruptcy courtrooms in this district, including those located in White Plains and Poughkeepsie.

Rule 5073-2 REMOTE ACCESS TO PROCEEDINGS

Access by parties, parties in interest and the public to proceedings before the Court will be governed by the revised policy, effective September 22, 2023, of the Judicial Conference of the United States, which provides that "a judge presiding over a civil or bankruptcy non-trial proceeding may, in the judge's discretion, authorize live remote public audio access to any portion of that proceeding in which a witness is not testifying." Further information on the policy is available at the following link: Judicial Conference Policy. Pursuant to that policy, courtrooms will be open and, where applicable, remote access may be provided to parties and parties in interest for access to hearings and trials, and public access may be provided to the extent permitted by the Judicial Conference policy. Access to proceedings may be limited by other statutes and rules, including without limitation section 107 of the Bankruptcy Code, Rule 9018 of the Federal Rules of Bankruptcy Procedure and Rule 615 of the Federal Rules of Evidence. Each Judge's policies regarding remote access to proceedings will be set forth in such Judge's chambers rules.

Rule 5075-1 CLERK'S USE OF OUTSIDE SERVICES AND AGENTS; CLAIMS AND NOTICING AGENTS

(a) The Court may direct, subject to the supervision of the Clerk, the use of agents either on or off the Court's premises to file Court records, either by paper or electronic means, to issue notices, to maintain case dockets, to maintain Judges' calendars, and to maintain and disseminate other administrative information where the costs of such facilities or services are paid for by the estate.

(b) Estate Retention of Claims and Noticing Agent

(1) In a case in which the number of creditors and equity security holders, in the aggregate, is 250 or more, the estate shall retain, subject to approval of the Court, a claims and noticing agent in accordance with the Protocol for the Employment of Claims And Noticing Agents under 28 U.S.C. §156(c), which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/pdf/newClaimsAgentsProtocol.pdf).

(2) With court approval, the estate may retain a claims and noticing agent in accordance with such protocol in a case in which the number of creditors and equity security holders, in the aggregate, is less than 250.

(3) The costs of services provided by such agent must be paid by the estate. When the case is closed, the claims and noticing agent must deliver to the Clerk an electronic copy of the claims register.

(c) Upon request of the Clerk, the agent shall provide a copy of all electronic records maintained by the agent to the Clerk and shall provide public access to the Claims Registers, including complete proofs of claim with attachments, if any, without charge.

(d) The order providing for the retention of an agent under this rule shall provide for (i) the discharge of the agent at the conclusion of the case, or as otherwise provided by entry of an additional order by the Court, and (ii) the disposition of any records, documents and the like, that have been provided or delivered to such agent, whether in paper or electronic form in accordance with the *Protocol for the Employment of Claims Agents*.

Comment

This rule complements 28 U.S.C. §156(c). Pursuant to the guidelines of the Judicial Conference of the United States, the Clerk is responsible for the security and integrity of all Court records.

This rule was amended in 2013 to add as new subdivision (b) the provisions of General Order M-409, relating to the use of claims and noticing agents, and to state in the rule the link to the Court's website where practitioners may access the governing protocols. The substance of former subdivision (b) has been deleted. The Clerk does not maintain duplicate electronic records of the claims register held by the claims and

noticing agent. Such claims register is delivered to the Clerk upon the closing of the case. General Order M-409 was abrogated and replaced by this local rule in 2013.

Subsection (b) of this rule was stylistically revised in 2016. No substantive change was intended. The subsection was amended in 2024 to clarify that the claims register delivered to the Clerk at the conclusion of the case must be in electronic format.

Subsection (c) of this rule was amended and subsection (d) was added in 2016 to require open access to claims registries in accordance with existing requirements and Clerk's Office procedures, as well as section 107 of the Bankruptcy Code and Bankruptcy Rules 3002(b) and 5005(a).

Rule 5078-1 PAYMENT OF FEES

Unless the Court orders otherwise, the Clerk shall not be required to render any service for which a fee is prescribed by statute or the Judicial Conference of the United States unless the fee is paid in advance.

Comment

This rule is derived from Former Local Bankruptcy Rule 10 and is an adaptation of Civil Rule 1.7 of the Local District Rules.

An application for permission to make installment payments may be filed pursuant to Bankruptcy Rule 1006(b).

PART VI: COLLECTION AND LIQUIDATION OF THE ESTATE

Rule 6004-1 SALES OF PROPERTY, APPRAISALS, AND AUCTIONS

(a) *Notice.* The trustee may sell property of the estate that the trustee reasonably believes has an aggregate gross value of no more than $10,000 by public or private sale on seven (7) days' written notice to any party with an interest in such property, the landlord of the premises on which the property is located, and such other parties as the Court may direct. The notice of any proposed sale of property of the estate having an aggregate gross value of at least $2,500 shall include the time and place of the proposed sale, whether the sale will be public or private, and the terms and conditions of the proposed sale.

(b) *Appraisals.* Unless the Court orders otherwise, if an appraiser has been employed, the property to be appraised must not be sold until after the appraisal has been filed.

(1) *Caption.* All appraisals filed with the Court must have a cover sheet bearing the caption of the case in compliance with Local Bankruptcy Rule 9004-2 and the date, if any, of the proposed sale.

(2) *Filing and Access.* Unless the Court orders otherwise, any appraiser employed pursuant to section 327(a) of the Bankruptcy Code must file with the Court and the United States Trustee each appraisal made of property of the estate not later than 12:00 noon on the day prior to the scheduled sale of the property. Each appraisal shall be kept under seal upon filing and treated as confidential by the Court and the United States Trustee. Access to the appraisal may be had only by the Court, the United States Trustee and such other parties as the Court may direct, and neither they nor the appraiser shall disclose any of the contents thereof until after the conclusion of the bidding at any sale of the appraised property, at which time the Court may order the appraisal to be unsealed. Unless the Court orders otherwise, the appraisal shall be unsealed six (6) months from the date on which the appraisal is filed.

(3) *Conformity with Auctioneer's Catalogue of Sale.* If property is to be appraised and sold at auction, upon request, the auctioneer promptly shall deliver the catalogue of sale to the appraiser. The appraisal shall conform to the catalogue to the greatest extent possible.

(c) *Manner of Display and Conduct of Auction.* Unless the Court orders otherwise, the auction must be conducted in the following manner:

(1) the property shall be on public display for a reasonable period of time prior to the sale;

(2) prior to receiving bids, the auctioneer shall announce the terms of sale;

(3) where practicable, the property shall be offered for sale first in bulk and then in lots; and

(4) any property that is not to be included in the sale shall be set apart and conspicuously marked "not included in the sale," and such fact shall be announced by the auctioneer before the sale.

(d) *Joint Sales.*

(1) If the trustee and a secured party, or other third party having an interest in the property, desire to conduct a joint auction sale, or if the joint sale of property in more than one (1) bankruptcy estate is anticipated to be more cost effective or beneficial for all the bankruptcy estates, the Court shall enter an order prior to the sale fixing the method of allocating the commissions and expenses of sale.

(2) The commissions and expenses incurred on behalf of one (1) bankruptcy estate in a joint auction sale must not be charged to any other estate unless the motion requesting the joint auction reveals the identity and number of any other estate participants in the joint auction sale, and how such commissions and expenses shall be apportioned among them.

(3) Nothing in this rule shall prevent the trustee from participating in a joint sale with a non-debtor, provided it is in the best interest of the debtor's estate and its creditors.

(e) *Proceeds of Sale.* Upon receipt of the proceeds of sale, the auctioneer immediately must deposit the proceeds in a separate account that the auctioneer maintains for each estate in accordance with the requirements of section 345(a) of the Bankruptcy Code. Unless the Court orders otherwise, payment of the gross proceeds of the sale, less the auctioneer's reimbursable expenses, must be made promptly by the auctioneer to the trustee or debtor in possession, but in no event later than fourteen (14) days after the date on which the proceeds are received with respect to each item or lot sold.

(f) *Report of Sale.* Unless the Court orders otherwise, (i) within twenty-one (21) days after the last date of the auction, the auctioneer must file a report with the Court and transmit a copy of the report to the United States Trustee, and (ii) if all proceeds of the auction have not been received by such date, the auctioneer must file a supplemental report within fourteen (14) days after all proceeds have been received. The report shall set forth:

(1) the time, date and place of the sale;

(2) the gross dollar amount of the sale;

(3) if property was sold in lots, a description of the items in each lot, the quantity in each lot, the dollar amount received for each lot, and any bulk bid(s) received;

(4) an itemized statement of expenditures, disbursements, and commissions allowable under Local Bankruptcy Rule 6005-1, including the name and address of the payee, together with the original receipts or canceled checks, or true copies thereof, for the expenditures or disbursements. Where labor charges are included, the report must specify the days worked and the number of hours worked each day by each person and the last four digits of the person's social security number. If the canceled checks are not available at the time the report is filed, the report must so state, and the canceled checks must be filed as soon as they become available;

(5) where the auctioneer has a blanket insurance policy covering all sales conducted by the auctioneer, for which original receipts and canceled checks are not available, an explanation of how the insurance expense charged to the estate was computed;

(6) if any articles were withdrawn from the sale because of a third party claim of an interest therein, a separate itemized statement of the articles reflecting the names of such third parties;

(7) the names and addresses of all purchasers;

(8) the sign-in sheet, if any; otherwise, the approximate number of people attending the sale;

(9) the items for which there were no bids and the disposition of those items;

(10) the terms and conditions of sale that were read to the audience immediately prior to the commencement of the sale;

(11) a statement of the manner and extent of advertising of the sale;

(12) a statement of the manner and extent of the availability of the items for inspection; and

(13) any other information that the United States Trustee may request.

(g) *Affidavit to Accompany Report of Sale.* The auctioneer must submit with the report of sale an affidavit stating: (i) that the auctioneer is a duly licensed auctioneer; (ii) the auctioneer's license number and place of business; (iii) the authority pursuant to which the auctioneer conducted the auction; (iv) the date and place of the auction; (v) that the labor and other expenses incurred on behalf of the estate as listed in the report of sale were reasonable and necessary; and (vi) that the gross proceeds of sale, exclusive of expenses, were remitted to the trustee or debtor in possession and the date of the remittance.

(h) *Advertisement and Publication of Notice of Sale.* An advertisement or publication of notice of a sale by auction or otherwise may be made without Court approval if it is sufficient to provide adequate notice of the sale and is advertised or published at least once in a newspaper of general circulation in the city or county in which the property is located. The advertisement or publication must include: (i) the date, time and place of the sale; (ii) a description of the property to be sold including, with respect to real property, the approximate acreage of any real estate outside the limits of any town or city, the street, lot and block number of any real estate within any town or city, and a general statement of the character of any improvements upon the property; (iii) the terms and conditions of the sale; and (iv) the name, address and telephone number of the trustee or debtor in possession. The Court may fix the manner and extent of advertising and publication at any time.

(i) *[intentionally omitted]*

(j) *Compliance with Guidelines of the Court.* In addition to the foregoing requirements, parties conducting a sale of property of the estate, including trustees and auctioneers, must comply with the Guidelines for the Conduct of Asset Sales by the Court, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/6004-1-j-Guidelines.pdf).

Comment

Subdivision (a) of this rule was added in 1996. Subdivision (b) of this rule is derived from Former Local Bankruptcy Rule 40. Subdivisions (c), (d), (e), (f), and (g) of this rule are derived from Former Local Bankruptcy Rule 41. Subdivision (h) of this rule is derived from Former Local Bankruptcy Rule 42. Subdivision (i) of this rule is derived from Former Local Bankruptcy Rule 45(g).

Subdivision (d) of this rule was amended in 2004 to provide for joint sales of property from more than one estate. Subdivision (e) makes clear that the proceeds of an auction shall be turned over within the time

specified, even if the auction has not yet concluded. Unlike subdivision (e), which requires the turnover of proceeds with respect to each lot or item of property, subdivision (f) contemplates the filing of a report within the time specified after the auction has been concluded and the supplementing of such report when the proceeds are received thereafter. Due to privacy concerns, subdivision (f) of this rule was amended in 2004 to delete the requirement that an auctioneer include in its report the social security numbers of people being paid labor charges.

The contents of a notice of a proposed sale are governed by Bankruptcy Rule 2002(c)(1).

In 2009, subdivision (a) of this rule was amended to change the time period from five (5) to seven (7) days, and subdivision (b) of this rule was amended to change the time period from ten (10) to fourteen (14) days. The purpose of these amendments was to conform the time periods in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

The business day deadline in subdivision (b)(2) of this rule was also amended in 2009 to delete the reference to "business" so that the time period will be consistent with the 2009 amendments to Bankruptcy Rule 9006(a).

Guidelines for the conduct of asset sales were promulgated by General Order M-383. This rule was amended in 2013 to specify the title of the procedures promulgated by General Order M-383 and to state in the rule the link to the Court's website where practitioners may access the governing procedures. The procedures also may be obtained from the Clerk. The procedures set forth in the Guidelines for the Conduct of Asset Sales may be amended by the Court after giving notice and opportunity for comment as is appropriate.

Subsection (i) was revised to conform to the 2016 amendments relocating Local Bankruptcy Rule 2002-2 to Local Bankruptcy Rule 9074-1(c). Subsection (i) now refers to Local Bankruptcy Rule 9074-1(c), instead of Local Bankruptcy Rule 2002-2.

Subsection (i) was repealed in 2017.

Rule 6005-1 AUCTIONEERS

(a) *No Official Auctioneer.* There shall be no official auctioneer.

(b) *Compensation*. Unless the Court orders otherwise for cause, compensation and reimbursement of expenses shall be allowed to an auctioneer for sales of property as follows:

(1) commissions on each sale conducted by the auctioneer at the following rates:

(A) 10% of any gross proceeds of sale up to $50,000;

(B) 8% of any gross proceeds of sale in excess of $50,000 but not more than $75,000;

(C) 6% of any gross proceeds of sale in excess of $75,000 but not more than $100,000;

(D) 4% of any gross proceeds of sale in excess of $100,000 but not more than $150,000;

(E) 2% of any gross proceeds of sale in excess of $150,000; and

(2) reimbursement for reasonable and necessary expenses directly related to the sale, including labor, printing, advertising and insurance, but excluding workers' compensation, social security, unemployment insurance and other payroll taxes. When directed by the trustee or debtor in possession to transport goods, the auctioneer shall be reimbursed for expenditures related thereto. No travel expenses shall be allowed, except as ordered by the Court.

(c) *Buyer's Premiums*. If a "buyer's premium" is to be sought at any auction there must be disclosure of this intent to the Court prior to the conduct of the auction and prior to the approval of the auctioneer's compensation. With the advance approval of the Court such buyer's premium may constitute the compensation payable to the auctioneer in lieu of other compensation. Otherwise, any buyer's premium shall be treated as part of the sale price that is payable to the estate, unless the Court expressly orders otherwise. No auctioneer be entitled to both a "buyer's premium" and a separate fee unless the Court has expressly authorized such compensation in advance of an auction.

(d) *Purchase Prohibited*. An auctioneer, or officer, director, stockholder, agent or employee of an auctioneer, must not purchase directly or indirectly, or have a financial interest in the purchase of, any property of the estate that the auctioneer has been employed to sell.

(e) *Bond*. An auctioneer employed pursuant to section 327 of the Bankruptcy Code must not act until the auctioneer files with respect to each estate, at the auctioneer's expense, a surety bond in favor of the United States, to be approved, and in such sum as may be fixed, by the United States Trustee, which is conditioned upon:

(1) the faithful and prompt accounting for all monies and property that may come into the auctioneer's possession;

(2) compliance with all rules, orders, and decrees of the Court; and

(3) the faithful performance of the auctioneer's duties.

(f) *Blanket Bond.* In lieu of a bond in each case, an auctioneer may be permitted to file, at the auctioneer's own expense, a blanket bond covering all cases in which the auctioneer may act. The blanket bond shall be in favor of the United States in such sum as the United States Trustee shall fix and shall be conditioned for each estate on the same terms as bonds in separate estates.

(g) *Application for Commissions.* An auctioneer shall file an application with the Court for approval of commissions on not less than seven (7) days' notice to the debtor, the trustee, the United States Trustee and each committee. No application shall be granted unless the report of sale referred to in Local Bankruptcy Rule 6004-1(f) has been filed.

Comment

This rule is derived from Former Local Bankruptcy Rule 41.

Subdivision (b) regarding "buyer's premiums" was added in 2024 to provide a standardized practice for the disclosure of such terms and to ensure that the full scope of auctioneers' compensation is clarified in advance of any auction. The other subdivisions of this Rule were re-designated after new subdivision (b) was added.

Advertisements of auction sales are governed by Local Bankruptcy Rule 6004-1(h).

Subdivision (g) of this rule (formerly subdivision (f)) was amended in 2009 to change the time period from five (5) to seven (7) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time- related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven, thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Rule 6006-1 EXECUTORY CONTRACTS AND UNEXPIRED LEASES

(a) *Motion to Assume, Reject, or Assign Executory Contract or Unexpired Lease.* A motion to assume, reject, or assign an executory contract or unexpired lease shall be served in accordance with the time limits set forth in Local Bankruptcy Rule 9006-1(b), which may be waived or modified upon the written consent of all parties entitled to notice of the motion. In the event that a nonconsensual order is sought on less than fourteen (14) days' notice, Local Bankruptcy Rule 9077-1 shall govern and an actual hearing shall be held.

(b) *Assumption of Executory Contract or Unexpired Lease in Chapter 7 Case.*

(1) Unless the Court orders otherwise, in a chapter 7 case, a trustee moving to assume an executory contract or unexpired lease of residential real property or personal property of the debtor shall seek to obtain a return date for the hearing on the

motion that is within sixty (60) days after the order for relief or, if the time to assume has been extended, before the expiration of such extended period. If the trustee files a motion to assume or to extend the time to assume or reject an executory contract or unexpired lease of residential real property or personal property, and the motion is filed not later than sixty (60) days after the order for relief (or, if the time to assume or reject the executory contract or unexpired lease has been extended previously by order of the Court, before the expiration of the extended time) with a return date no later than fourteen (14) days from the date of such filing, the time to assume or reject the executory contract or unexpired lease shall be extended automatically and without court order until the entry of the order resolving the motion.

(2) The assumption by an individual debtor of a lease of personal property that is no longer property of the estate pursuant to Section 365(p)(2)(A) of the Bankruptcy Code shall not require the approval of the Court. Any party in interest that requests an order of the Court approving such an assumption shall in its request prominently state the reasons for seeking such an order notwithstanding its knowledge that an order of the Court is not required for such assumption.

(c) *Motion to Assume Unexpired Lease of Nonresidential Real Property*. Unless the Court orders otherwise, in a case under any chapter, a debtor, debtor in possession or trustee moving to assume an unexpired lease of nonresidential real property under which the debtor is the lessee shall seek to obtain a return date for the hearing on the motion that is within one hundred twenty (120) days after the order for relief or, if the time to assume has been extended, before the expiration of such extended period. If the debtor, debtor in possession or trustee files a motion to assume or to extend the time to assume or reject an unexpired lease of nonresidential real property, and the motion is filed not later than one hundred-twenty (120) days after the order for relief (or, if the time to assume or reject the unexpired lease has been extended previously by order of the Court, before the expiration of the extended time) with a return date no later than fourteen (14) days from the date of such filing or, if the Court is unable to schedule a return date within such fourteen (14) day period, as soon thereafter as the return date may be scheduled by the Court, the time to assume or reject the unexpired lease will be extended automatically and without court order until the entry of the order resolving the motion, except that the time for the debtor, debtor in possession or trustee to assume or reject such unexpired lease shall not be extended beyond the date that is two hundred ten (210) days after the entry of the order for relief without the prior written consent of the landlord.

(d) *Aircraft Equipment and Vessels*. Unless the Court orders otherwise, a debtor in possession or trustee moving for approval of an agreement to perform all obligations of the debtor pursuant to section 1110(a)(2)(A) of the Bankruptcy Code shall seek to obtain a return date for the hearing on the motion that is within sixty (60) days after the order for relief or, if the time to assume has been extended by order of the Court, before the expiration of such extended period.

(e) *Rolling Stock Equipment.* Unless the Court orders otherwise, a trustee moving for approval of an agreement to perform all obligations of the debtor pursuant to section 1168(a)(1)(A) of the Bankruptcy Code shall seek to obtain a return date for the hearing on the motion that is within sixty (60) days after the date of commencement of the case

or, if the time to assume has been extended by order of the Court, before the expiration of such extended period.

Comment

Subdivision (a) of this rule is derived from former Standing Order M-118. Subdivisions (b) and (c) of this rule are derived from Former Local Bankruptcy Rule 44(b) and (c). Subdivisions (d) and (e) of this rule, added in 1996, are derived from sections 1110 and 1168 of the Bankruptcy Code.

Section 365(d)(1) of the Bankruptcy Code contemplates that a hearing on a motion by a chapter 7 trustee to assume an executory contract or unexpired lease of residential real property or personal property of the debtor ordinarily will take place within sixty (60) days from the date of the order for relief. In addition, section 365(d)(4) of the Bankruptcy Code contemplates that a final hearing on a motion by a debtor, debtor in possession or trustee to assume an unexpired lease of nonresidential real property of the debtor ordinarily will take place within one hundred twenty (120) days from the date of the order for relief.

Under section 365(d)(1) of the Bankruptcy Code, in a chapter 7 case, the Court may, for cause, extend the sixty (60)-day time period for assuming or rejecting an executory contract or unexpired lease of residential real property or personal property. Similarly, under section 365(d)(4), the Court may, for cause, extend the one hundred twenty (120)-day time period for assuming or rejecting an unexpired lease of nonresidential real property. In 2004, subdivisions (b) and (c) of this rule were amended to avoid the necessity of obtaining a "bridge order" extending these time periods in the event that a timely motion to assume or a timely motion to extend the time was filed but not resolved by the Court before the expiration of the time to assume or reject the contract or lease. Adequate cause for an extension of time to assume or reject the executory contract or unexpired lease until the Court rules on the motion exists by virtue of the fact that a motion to assume or to extend the time was filed in a timely manner. Any party in interest objecting to the extension of time may request a hearing on an expedited basis. To prevent abuse of the automatic extension, the return date of the motion must be no later than fourteen (14) days after the motion is filed.

Subdivision (a) of this rule was amended in 2009 to change the time period from ten (10) to fourteen (14) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time - related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

This rule was amended in 2013 to include in the new paragraph (2) of subdivision (b) the provisions of General Order M-415, which relates to an individual debtor's assumption of a lease of personal property under section 365(p) of the Bankruptcy Code. General Order M-415 was abrogated and replaced by this local rule in 2013.

Subdivision (c) was amended in 2013 so that the automatic extension of time would apply if the Court is unable to schedule a return date within fourteen (14) days after the motion is filed, provided that the return date is as soon thereafter as it may be scheduled by the Court. Subdivision (d) was amended in 2013 to update the Bankruptcy Code cross reference to reflect Bankruptcy Code amendments subsequent to this local rule's promulgation.

Rule 6007-1 ABANDONMENT OR DISPOSITION OF PROPERTY

(a) Unless the Court orders otherwise, the notice of a proposed abandonment or disposition of property pursuant to Bankruptcy Rule 6007(a) shall describe the property to be abandoned or disposed of, state concisely the reason for the proposed abandonment or disposition, and, in the case of abandonment, identify the entity to whom the property is proposed to be abandoned.

(b) If the trustee files a notice of abandonment of a residential real property lease, other than a proprietary lease for a cooperative residence, the notice need only be served on the debtor and the landlord.

Comment

This rule, added in 1996, simplifies the procedure for abandonment of an individual debtor's leased residence that is of no value to the estate so that the debtor may remain in such premises.

PART VII: ADVERSARY PROCEEDINGS

Rule 7005-1 FILING OF DISCOVERY-RELATED DOCUMENTS

Except as otherwise provided in these Local Bankruptcy Rules or by Court order, transcripts of depositions, exhibits to depositions, interrogatories, answers to interrogatories, document requests, responses to document requests, requests for admissions, and responses to requests for admissions may not be filed with the Court.

Comment

This rule is derived from Civil Rule 5.1 of the Local District Rules.

In 2017, this rule was amended to delete subparagraph (b). The rule contained in subparagraph (b) is reiterated in Local Bankruptcy Rule 8009-1(a), in Part VIII of the Local Bankruptcy Rules governing Appeals. As such, subparagraph (b) of this rule was felt to be redundant. No substantive change is intended.

Rule 7007.1-1 CORPORATE OWNERSHIP STATEMENT TO BE FILED BY A BUSINESS ENTITY OF ANY KIND THAT IS A PARTY TO AN ADVERSARY PROCEEDING

The Corporate Ownership Statement required under Bankruptcy Rule 7007.1 shall also be filed by any party or proposed intervenor to an adversary proceeding, other than the debtor or a governmental entity, that is a business entity of any kind irrespective of whether it of a kind enumerated in section 101(9)(A) of the Bankruptcy Code.

Comment

Bankruptcy Rule 7007.1, effective December 1, 2003, requires a Corporate Ownership Statement to be filed for any corporation that is a party to an adversary proceeding other than the debtor or a governmental entity. "Corporation" is broadly defined under section 101(9) of the Bankruptcy Code (and includes, for instance, limited liability companies and other unincorporated companies or associations), but it does not cover general or limited partnerships. The reasons for which this rule was enacted – to give the Judges of this Court information by which they can determine whether or not they need to recuse themselves – apply equally without regard to the legal form of a business entity. This local rule requires a similar disclosure with respect to business organizations of that character. Local Bankruptcy Rule 7007-1.1 was therefore amended in 2024 to mandate that the Corporate Ownership Statement referenced in Bankruptcy Rule 7007.1 be filed by a business entity of any kind.

The heading of this rule was amended in 2009 to more accurately reflect the substance of the rule.

This rule was also amended in 2024 to track a 2021 amendment to Bankruptcy Rule 7007.1 regarding the filing of Corporate Ownership Statements by intervenors.

Rule 7016-2 INITIAL PRETRIAL CONFERENCE

The Court shall schedule an initial pretrial conference in all adversary proceedings. The date and time of the initial pretrial conference shall be set forth in the summons. Subsequent pretrial conferences may be scheduled in open court or by the Clerk as provided above. If a subsequent pretrial conference is scheduled in open court, the plaintiff shall file a notice of the date and time of such pretrial conference no later than forty-eight (48) hours after it was scheduled in open court. In advance of the initial pretrial conference the parties should confer

about the terms of a scheduling order as specified in Fed. R. Civ. P. 16(b), made applicable by Bankruptcy Rule 7016, and should be prepared to discuss the scheduling order at the conference.

Comment

This rule was added in 2013 to require a pretrial conference in every adversary proceeding and to specify the procedures for giving parties notice of the initial conference and any subsequent conferences. The rule was amended in 2024 to make clear that the initial pretrial conference is intended to be a scheduling conference for purposes of Fed. R. Civ. P. 16(b).

Rule 7026-1 UNIFORM DEFINITIONS IN DISCOVERY REQUESTS

Civil Rule 26.3 of the Local District Rules shall apply to discovery requests made in cases and proceedings commenced under the Bankruptcy Code.

Comment

This rule contains a technical change to reflect a renumbering of the applicable Local District Rule.

Rule 7027-1 DEPOSITIONS PRIOR TO COMMENCEMENT OF ADVERSARY PROCEEDING OR PENDING APPEAL WHEN DEPOSITION IS MORE THAN 100 MILES FROM COURTHOUSE

If, prior to the commencement of an adversary proceeding or pending appeal, a proposed deposition pursuant to Bankruptcy Rule 7027 is sought to be taken at a location more than one hundred (100) miles from the courthouse, the Court may provide in the order therefor that, prior to the examination, the party seeking to take the deposition shall pay the expense of the attendance of one attorney for each adverse party, or expected adverse party, including reasonable attorney's fees. Unless the Court orders otherwise, any amounts paid pursuant to this subdivision shall be a taxable cost in the event the party taking the deposition is awarded costs of the adversary proceeding.

Comment

This rule is derived from Former Local Bankruptcy Rule 24 and is an adaptation of Civil Rule 30.1 of the Local District Rules.

Rule 7030-1 DEPOSITIONS UPON ORAL EXAMINATION MORE THAN 100 MILES FROM COURTHOUSE

If a proposed deposition upon oral examination is sought to be taken at a location more than one hundred (100) miles from the courthouse, the Court may provide in any order entered pursuant to Bankruptcy Rule 7030 that, prior to the examination, the party seeking to take the

deposition shall pay the expense of the attendance of one attorney for each adverse party, or expected adverse party, including reasonable attorneys' fees. Unless the Court orders otherwise, any amounts paid pursuant to this subdivision shall be a taxable cost in the event that the party taking the deposition is awarded costs of the adversary proceeding.

Comment

This rule is derived from Former Local Bankruptcy Rule 24 and is an adaptation of Civil Rule 30.1 of the Local District Rules.

This title of this rule was stylistically amended in 2016 to conform to the language used in Local Bankruptcy Rule 7027-1. No substantive change was intended.

Rule 7033-1 INTERROGATORIES

(a) *Restrictions.* At the commencement of discovery, interrogatories will be restricted to those questions seeking names of witnesses with knowledge or information relevant to the subject matter of the action, the computation of each category of damage alleged, and the existence, custodian, location, and general description of relevant documents, including pertinent insurance agreements, and other physical evidence, and information of a similar nature.

(b) *Method of Obtaining Information.* During discovery, interrogatories, other than those seeking information described in subdivision (a) of this rule, may be served only if (i) they are a more practical method of obtaining the information sought than a request for production or a deposition or (ii) ordered by the Court.

(c) *What May Be Served*. Unless the Court orders otherwise, at the conclusion of each party's discovery, and at least thirty (30) days prior to the discovery cut-off date, interrogatories seeking the claims and contentions of the opposing party may be served. Questions seeking the names of expert witnesses and the substance of their opinions also may be served if such information has not yet been supplied.

(d) *No Interrogatories to Be Unanswered*. No part of an interrogatory may be left unanswered merely because an objection is interposed to another part of the interrogatory.

(e) *Objections or Requests for Relief*.

(1) In connection with any objection or request for relief with respect to interrogatories or answers to interrogatories, the party making the objection or request for relief shall (i) simultaneously with the filing of a request or moving papers, file a copy of the interrogatories or answers to interrogatories and (ii) specify and quote verbatim in the request or moving papers each relevant interrogatory or answer and, immediately following each specification, set forth the basis of the objection or relief requested.

(2) If an objection or request for relief is made with respect to any interrogatory or portion thereof, the objection shall state all grounds with specificity. Any ground not stated in the objection or request for relief within the time provided by the Bankruptcy Rules, or any extensions thereof, shall be deemed waived.

(3) If a claim of privilege is asserted in an objection or request for relief with respect to any interrogatory or portion thereof, and an answer is not provided on the basis of the assertion, the objection or request for relief shall identify:

(A) the nature of the privilege being claimed and, if the privilege is being asserted in connection with a claim or defense governed by state law, the state's privilege rule being invoked; and

(B) unless divulgence of such information would cause disclosure of the allegedly privileged information:

1. for documents: (i) the type of document; (ii) the general subject matter of the document; (iii) the date of the document; and (iv) such other information as is sufficient to identify the document for a subpoena duces tecum, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author to the addressee and the names of all entities that received a copy of the document.

2. for oral communications: (i) the name of the person making the communication, the names of any persons present while the communication was made, and, where not apparent, the relationship of the persons present to the person making the communication; (ii) the date and place of the communication; and (iii) the general subject matter of the communication.

(f) *Reference to Records.* If a party answers an interrogatory by reference to records from which the answer may be derived or ascertained, as permitted by Bankruptcy Rule 7033:

(1) the specification of documents to be produced shall be in sufficient detail to permit the interrogating party to locate and identify the records and ascertain the answer as readily as could the party from whom discovery is sought;

(2) the producing party shall also make available any computerized information or summaries thereof that it has, or can adduce by a relatively simple procedure, unless these materials are privileged or otherwise immune from discovery;

(3) the producing party shall also provide any relevant compilations, abstracts, or summaries in its custody or readily obtainable by it, unless these materials are privileged or otherwise immune from discovery; and

(4) unless the Court orders otherwise, the documents shall be made available for inspection and copying within fourteen (14) days after service of the answers to interrogatories or on a date agreed upon by the parties.

Comment

This rule is derived from Former Local Bankruptcy Rule 14 and is an adaptation of Civil Rules 5.1, 33.3, and 37.1 of the Local District Rules as well as former Civil Rule 33.1 of the Local District Rules, with the exception of subdivision (e)(1) of this rule, which is derived from Former Local Bankruptcy Rule 13.

Subdivision (f)(4) of this rule was amended in 2009 to change the time period from ten (10) to fourteen (14) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Bankruptcy Rules. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Subsection (e)(2) was stylistically amended in 2016. No substantive change was intended.

Subparagraphs (a) and (c) were amended in 2017 to conform to Civil Rule 33.3(a) and (c) of the Local District Rules. Subparagraph (a) was amended by deleting the reference to initial disclosures under Rule 26(a) of the Federal Rules of Civil Procedure. No substantive change was intended. Subparagraph (c) was amended by adding a thirty (30) day deadline prior to the discovery cut-off to serve interrogatories seeking the claims and contentions of the opposing party.

Subparagraph (e)(1) was amended in 2017 to make clear that upon a discovery motion, relevant discovery material should be filed with the Court in accordance with the corresponding exception in Local Bankruptcy Rule 7005-1(a).

Rule 7034-1 OBJECTIONS TO, AND REQUESTS FOR RELIEF WITH RESPECT TO, PRODUCTION OF DOCUMENTS

(a) In connection with any objection or request for relief with respect to document requests or answers thereto, the party making the objection or request for relief shall (i) simultaneously with the filing of a request or moving papers, file a copy of the document request or answer and (ii) specify and quote verbatim in the request or moving papers each relevant document request or answer and, immediately following each specification, set forth the basis of the objection or relief requested.

(b) If an objection or request for relief is made with respect to any document request or portion thereof, the objection or request for relief shall state all grounds with specificity. Any ground not stated in the objection or request for relief within the time provided by the Bankruptcy Rules, or any extensions thereof, shall be deemed waived.

(c) If a claim of privilege is asserted in an objection or request for relief with respect to any document request or portion thereof, and an answer is not provided on the basis of the assertion, the objection or request for relief shall identify:

(1) the nature of the privilege being claimed and, if the privilege is being asserted in connection with a claim or defense governed by state law, the state's privilege rule being invoked; and

(2) unless divulgence of such information would cause disclosure of the allegedly privileged information: (i) the type of document; (ii) the general subject matter of the document; (iii) the date of the document; and (iv) such other information as is sufficient to identify the document for a subpoena duces tecum, including, where appropriate, the author of the document, the addressee of the document, and, where not apparent, the relationship of the author to the addressee, and the names of all entities that received a copy of the document.

Comment

This rule is derived from Former Local Bankruptcy Rule 14(e). Subdivision (a) of this rule is new and has been added to conform to subdivision (e)(1) of Local Bankruptcy Rule 7033-1. Subdivision (c)(2) of this Rule has been modified to conform to subdivision (e)(3)(B)(1) of Local Bankruptcy Rule 7033-1.

Subparagraph (a) of this rule was amended in 2017 to conform to similar amendments made to Local Bankruptcy Rule 7033-1(e)(1). The language is intended to maintain the force and effect of Local Bankruptcy Rule 7005-1(a)'s general prohibition on filing discovery documents, while allowing the moving party to append any relevant discovery material to a discovery conference request or motion dealing with an objection to a document request.

Rule 7036-1 REQUESTS FOR ADMISSION

In connection with any objection to a request for admission, the objecting party shall, with the filing of a request or moving papers, (i) file a copy of the request for admission simultaneously with the filing of the objection, (ii) specify and quote verbatim in the objection each request to which the objection is made, and (iii) immediately following each specification, set forth the basis of the objection.

Comment

This rule is derived from Former Local Bankruptcy Rule 13(f) and is an adaptation of Civil Rule 37.1 of the Local District Rules.

This rule was amended in 2017 to conform to similar amendments made to Local Bankruptcy Rules 7033-1(e)(1) and 7034- 1(a). The language is intended to maintain the force and effect of Local Bankruptcy

Rule 7005-1(a)'s general prohibition on filing discovery documents, while allowing the moving party to append any relevant discovery material to a discovery conference request or motion dealing with an objection to a request for admission.

Rule 7037-1 DISCOVERY-RELATED MOTION PRACTICE

(a) *Attorney's Affirmation.* No discovery-related motion under Bankruptcy Rules 7026 through 7037 may be heard unless counsel for the moving party files with the Court, at or prior to the hearing, an affirmation certifying that such counsel has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised by the motion without the intervention of the Court and that counsel have been unable to reach an agreement. If any of the issues raised by motion have been resolved by agreement, the affirmation shall specify the issues so resolved and the issues remaining unresolved.

(b) *Request for Informal Conference*. No discovery-related motion under Bankruptcy Rules 7026 through 7037 shall be heard unless counsel for the moving party first requests an informal conference with the Court and either the request has been denied or the discovery dispute has not been resolved as a consequence of the conference.

Comment

This rule is derived from Former Local Bankruptcy Rule 13. Subdivision (a) of this rule is an adaptation of Civil Rule 3(f) of the Former District Rules. Subdivision (b) of this rule is an adaptation of Civil Rule 37.2 of the Local District Rules.

Subparagraph (a) of this rule was amended in 2017 to change the requirement that counsel submit an affidavit certifying counsel has conferred with opposing counsel in good faith. Instead, counsel may now submit an affirmation. Given New York's Rules of Professional Conduct, Rule 3.3(a)(1), which prohibits an attorney from making a false statement of fact or law to a tribunal, an attorney affidavit does not provide any greater assurances that counsel conferred in good faith than an affirmation does. This breaks with Former Local Bankruptcy Rule 13.

This rule was renumbered in 2024 (changing it from 7007-1 to 7037-1) because discovery-related motion practice is more closely associated with Bankruptcy Rule 7037.

Rule 7052-1 PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

Before or after the announcement of its decision, the Court, on notice to all parties, may require one or more parties to submit proposed findings of fact and conclusions of law. Any

party submitting proposed findings of fact and conclusions of law shall serve them on all other parties within the time fixed by the Court. The Court may also grant any party's request to submit counter-findings and conclusions, which shall be served on all other parties within the time fixed by the Court.

Comment

This rule is derived from Former Local Bankruptcy Rule 18 and is an adaptation of Civil Rule 23 of the Former District Rules.

This rule was amended in 2016 to give the Court the power to affirmatively authorize the submission of counter-findings and conclusions. The previous version of this rule allowed the parties to submit counter-findings and conclusion by right, unless the Court ordered simultaneous submissions. The content of the record on appeal is no longer limited by this rule.

Rule 7055-1 CERTIFICATE OF DEFAULT

A party applying for a certificate of default from the Clerk pursuant to Bankruptcy Rule 7055 shall submit an affidavit showing that (i) the party against whom a default is sought is not an infant, in the military, or an incompetent person, (ii) the party has failed to plead or otherwise defend the action, and (iii) the pleading to which no response has been made was properly served.

Comment

This rule is derived from Civil Rule 55.1 of the Local District Rules.

This rule was amended in 2017 to remove the requirement for proof of service.

Rule 7055-2 DEFAULT JUDGMENT

(a) *By the Clerk.* Upon issuance by the Clerk of a certificate of default, if the claim to which no response has been made only seeks payment of a sum certain and does not include a request for attorney's fees or other substantive relief, and if a default judgment is sought against all remaining parties to the action, the moving party may request that the Clerk enter a default judgment by submitting an affidavit, together with proof of service, showing the principal amount due and owing, not exceeding the amount sought in the claim to which no response has been made, plus interest, if any, computed by the party, with credit for all payments received to date clearly set forth, and costs, if any, pursuant to 28 U.S.C. § 1920.

(b) *By the Court.* In all other cases, the party seeking a judgment by default shall apply to the Court as described in Bankruptcy Rule 7055 and shall append to the application (i) the

Clerk's certificate of default, (ii) a copy of the claim or complaint to which no response has been made, (iii) a proposed form of default judgment, and (iv) proof of service of the application.

Comment

This rule is derived from Civil Rule 55.2 of the Local District Rules.

Subparagraph (b) was amended in 2017 to clarify what must be submitted along with the application for default judgment.

Rule 7056-1 SUMMARY JUDGMENT

(a) Unless the Court orders otherwise, no party shall file a motion for summary judgment without first seeking a pre-motion conference. The request for a pre-motion conference shall be made by letter, filed with the Court, on the docket of the case, and served on all other parties setting forth the issues to be presented in the motion and the grounds for relief. Unless the Court otherwise directs, the letter shall not exceed two pages in length.

(b) Upon any motion for summary judgment pursuant to Bankruptcy Rule 7056, there shall be annexed to the motion a separate, short, and concise statement, in numbered paragraphs, of the material facts as to which the moving party contends there is no genuine issue to be tried. Failure to submit the statement shall constitute grounds for denial of the motion.

(c) Papers opposing a motion for summary judgment shall include a correspondingly numbered paragraph responding to each numbered paragraph in the statement of the moving party, and if necessary, additional paragraphs containing a separate, short, and concise statement of additional material facts as to which it is contended that there is a genuine issue to be tried.

(d) Each numbered paragraph in the statement of material facts required to be served by the moving party shall be deemed admitted for purposes of the motion unless specifically controverted by a correspondingly numbered paragraph in the statement required to be served by the opposing party.

(e) Each statement by the movant or opponent pursuant to subdivisions (b) or (c) of this rule, including each statement controverting any statement of material fact by a movant or opponent, shall be followed by citation to evidence which would be admissible.

Comment

Subdivision (a) of this rule was added in 2004 because motions for summary judgment are frequently burdensome, in time and expense, for the Court and the parties. Parties frequently file motions for summary judgment when an objective examination would reveal triable issues of fact or when the Court might conclude that it would be more cost-effective

to resolve all issues at trial, given that most trials in bankruptcy court are bench trials.

Subdivision (a) provides the Court with an opportunity to notify the parties of its observations at a pre-motion conference. The rule does not limit a party's right to file a motion for summary judgment after the pre-motion conference.

Subdivisions (b) through (e) of this rule are derived from Former Local Bankruptcy Rule 13(h) and are an adaptation of Civil Rule 56.1 of the Local District Rules. The statement of material facts shall be sufficiently complete to permit the Court to render judgment on the claim or defense. These subdivisions were amended in 2004 to conform with the 2004 amendments to Local District Rule 56.1. Compare Local Bankruptcy Rule 7052-1 (Proposed Findings of Fact and Conclusions of Law).

This rule was amended in 2013 to impose a page limit on any letter requesting a pre-motion conference as a prerequisite for filing a motion for summary judgment. This limit will produce greater efficiency and will prevent parties from extensive briefing of issues in the letter requesting a pre-motion conference.

PART VIII: APPEALS

Rule 8003-1 COPIES OF NOTICE OF APPEAL FOR PRO SE PARTIES

Upon the filing of a notice of appeal, the appellant shall provide the Clerk with sufficient copies of the notice and address labels for all pro se parties to be served to permit the Clerk to comply with Bankruptcy Rule 8003(c).

Comment

This rule is derived from Former Local Bankruptcy Rule 8004-1 and was renumbered to conform to the 2014 amendments to Part VIII of the Bankruptcy Rules and amended to require copies of the notice of appeal and address labels only for parties appearing pro se, which is consistent with the 2014 amendment to Bankruptcy Rule 8003(c). For all other parties, service of the notice of appeal is by electronic means pursuant to Bankruptcy Rule 8001(c).

Although the appellant is required to provide address labels, envelopes should not be provided.

Rule 8007-1 SUPERSEDEAS BOND

(a) A supersedeas bond, where the judgment is for a sum of money only, shall be in the amount of the judgment, plus interest at a rate consistent with 28 U.S.C.§ 1961, and $250 to cover costs and such damages for delay as may be awarded. The parties may waive the supersedeas bond by stipulation.

(b) When the stay may be effected as of right solely by the giving of the supersedeas bond, but the judgment or order is not solely for a sum of money, the Court, on notice, shall fix the amount of the bond. In all other cases, the Court may, on notice, grant a stay on such terms as to security and otherwise as it may deem proper.

(c) On approval, a supersedeas bond shall be filed with the Clerk, and a copy thereof, with notice of filing, promptly served on all parties affected thereby. If the appellee raises objections to the form of the bond or to the sufficiency of the surety, the Court shall hold a hearing on notice to all parties.

Comment

This rule is derived from Former Local Bankruptcy Rule 8005-1 and was renumbered in 2014 to conform to the 2014 amendments to Part VIII of the Bankruptcy Rules.

In 2017, this rule was amended to clarify conformance with 28 U.S.C. § 1961.

Rule 8009-1 RECORD ON APPEAL

(a) *Furnishing and Transmitting Record on Appeal*. Except as provided in subdivision (b) of this rule, a party filing a designation of items to be included in a record on appeal must attach to the designation a copy of each designated item that does not appear on the Court docket and file it on the CM/ECF system.

(b) *Documents of Unusual Bulk or Weight and Physical Exhibits*. Documents of unusual bulk or weight and physical exhibits shall remain in the custody of the attorney producing them, who shall permit their inspection by any party for the purpose of preparing the record on appeal and who shall be charged with the responsibility for their safekeeping and transportation to the appellate court.

Comment

This rule is derived from Former Local Bankruptcy Rule 8007-1 and was renumbered to conform to the 2014 amendments to Part VIII of the Bankruptcy Rules.

In 2016, this comment was edited to clarify that any disputes relating to the content of the record on appeal shall be decided in accordance with Bankruptcy Rule 8009(e).

In 2017, this rule was amended to clarify the procedure for furnishing and transmitting a record on appeal. No substantive change is intended.

Rule 8010-1 NOTICE TO THE BANKRUPTCY COURT OF THE FILING OF A PRELIMINARY MOTION WITH AN APPELLATE COURT

Upon the filing of a preliminary motion, as defined in Bankruptcy Rule 8010(c), in the district court or court of appeals, that arises out of an order issued by this Court, the moving party shall also file the preliminary motion and notice thereof on this Court's CM/ECF system.

Comment

This rule was added in 2016. It is intended to provide notice to the Court and all parties to the bankruptcy case of appellate motion practice relating to a decision or order entered in the bankruptcy case.

Rule 8024-1 ORDER, JUDGMENT, OR REMAND BY APPELLATE COURT

When an order or judgment of an appellate court is filed in the office of the Clerk, such order or judgment will automatically become the order or judgment of the Court and be entered on the docket of the main bankruptcy case or adversary proceeding without further order. If the order or judgment of the appellate court remands for further proceedings, a motion for such

further proceedings shall be referred to the Judge who heard the proceeding below unless the appellate court orders otherwise.

Comment

This rule is derived from Former Local Bankruptcy Rule 8016-1 and was renumbered to conform to the 2014 amendments to Part VIII of the Bankruptcy Rules.

In 2017, this rule was amended to better clarify the procedure to follow when an order or judgment of appellate court is filed. No substantive change is intended.

PART IX: GENERAL PROVISIONS

Rule 9001-1 DEFINITIONS – Amended August 1, 2013

(a) *Definitions*. Unless inconsistent with the context, in these Local Bankruptcy Rules –

(1) "*Bankruptcy Code*" means title 11 of the United States Code, as amended from time to time;

(2) "*Bankruptcy Rules*" means the Federal Rules of Bankruptcy Procedure and Official Bankruptcy Forms promulgated pursuant to 28 U.S.C. § 2075, as amended from time to time;

(3) "*Chief Judge*" means the Chief Judge of the Court;

(4) "*Clerk*" means the clerk or deputy clerk of the Court;

(5) "*CM/ECF*" means the Case Management/Electronic Case File System implemented in this Court, sometimes referred to herein as "*ECF*";

(6) "*Court*" means the United States Bankruptcy Court for the Southern District of New York;

(7) "*District Clerk*" means the clerk or deputy clerk of the District Court;

(8) "*District Court*" means the United States District Court for the Southern District of New York;

(9) "*District Judge*" means a United States District Judge appointed to, or sitting by designation in, the District Court;

(10) "*Former District Rules*" means the Rules for General, Civil, Criminal, Admiralty and Magistrate Judge Proceedings for the United States District Court for the Southern District of New York, effective from October 26, 1983 through April 15, 1997;

(11) "*Former Local Bankruptcy Rules*" means the United States Bankruptcy Court Southern District of New York Local Bankruptcy Rules, effective from April 21, 1986 through April 10, 1996;

(12) "*Judge*" means a bankruptcy judge appointed to or sitting by designation in the Court (or, with respect to a proceeding that has not been referred or which has been withdrawn, the District Judge);

(13) "*Local District Rules*" means the Local Rules for the United States District Court for the Southern and Eastern Districts of New York, as amended from time to time;

(14) "*Return Date*" means the date set for a hearing on a motion or application, and

(15) "*United States Trustee*" means the United States trustee or an assistant United States Trustee for the Southern District of New York.

(b) Rules of Construction.

(1) Unless inconsistent with the context, the meanings of other words and phrases used in these Local Bankruptcy Rules shall be construed in accordance with the Bankruptcy Code and Bankruptcy Rules.

(2) Local Bankruptcy Rules containing references and URL links to guidelines, procedures, or forms on the Court's website shall be construed to mean such guidelines, procedures, and forms as amended from time to time.

(c) Use of Terms "Documents" and "Papers." The terms "documents" and "papers" as used in these Local Bankruptcy Rules include those filed or transmitted by electronic means.

Comment

Subdivisions (a) and (b) of this rule are derived from Former Local Bankruptcy Rule 2. Subdivision (c) of this rule was added in 1996.

Subdivision (a) of this rule was amended in 2013 to add the definition of "return date." This defined term was added to clarify that all references in the Local Bankruptcy Rules to return date mean the date set for a hearing on a motion or application, not the date on which objections or replies are due. Although an actual hearing may not be required in the absence of an objection or request for a hearing, the date set for a hearing in the event that a hearing is or becomes necessary is the "return date." The return date is often used in the Local Bankruptcy Rules as a reference point for determining certain deadlines. *See* Local Bankruptcy Rule 9006-1.

Subdivision (a) was amended in 2024 to omit "Bankruptcy Act" as a defined term. The term, used to describe the Bankruptcy Act of 1898 (repealed 1978), no longer appears in these Local Bankruptcy Rules.

Subdivision (b) of this rule was amended in 2013 to add paragraph (2), which provides that a reference to URL links and guidelines in these Local Bankruptcy Rules is to be construed as a reference to such guidelines, procedures, and forms as they may be amended by the Court from time to time.

Rule 9004-1 FORM OF PAPERS

(a) *Papers Submitted for Filing*. Papers submitted for filing shall:

(1) be plainly typed or printed;

(2) not be bound or stapled;

(3) have no erasures or interlineations which materially deface them; and

(4) state on the face of the document:

(A) the name of the attorney for the filing party;

(B) the attorney's office and post office addresses; and

(C) the attorney's telephone number.

(b) Chambers copies and copies for the United States Trustee shall be bound or stapled and submitted in accordance with Local Bankruptcy Rule 9070-1.

Comment

This rule is derived from Former Local Bankruptcy Rule 9(b) and is an adaptation of Civil Rule 11.1 of the Local District Rules.

The general rules for form of papers are set forth in Bankruptcy Rule 9004 and Official Bankruptcy Forms B416A, B416B and B416D.

This rule was amended in 2004 to conform to Civil Rule 11.1(b) of the Local District Rules to allow attorneys to use an identification number issued by the District Court instead of the last four digits of the attorney's social security number.

This rule was also amended in 2004 to clarify that pleadings no longer require litigation backs or covers.

This rule was amended in 2008 to conform to the repeal of Civil Rule 11.1(b) of the Local District Rules, which previously required that every pleading, written motion and other paper signed by an attorney include the attorney's initials and the last four digits of the attorney's social security number or any other four digit number registered by the attorney with the clerk of the court.

Rule 9004-2 CAPTION

(a) Papers submitted for filing shall bear the title of the case, the initials of the Judge to whom the case has been assigned, the docket number assigned to the case, and, if applicable, the adversary proceeding number.

(b) The return date and time of a motion, and time for serving any responsive papers, shall be included in the upper right-hand corner of the caption of the motion and all related pleadings. In addition, the CM/ECF docket number to which the filing relates shall be included in the upper right-hand corner of the caption of all responsive papers.

Comment

Subdivision (a) of this rule is derived from Former Local Bankruptcy Rule 9. Subdivision (b) of this rule is derived from former Standing Order M-99. The return date for a motion is obtained pursuant to Local Bankruptcy Rule 5070-1.

This rule was amended in 2013 to require that all motions and related pleadings include the deadline for filing objections or other responsive papers in the caption. In addition, for all objections or other responsive papers, the CM/ECF docket number for the proceeding must be included in the caption.

Rule 9006-1 TIME FOR SERVICE AND FILING OF MOTIONS AND ANSWERING PAPERS

(a) *Discovery-Related Motions*. Unless the Court orders otherwise, all motion papers under Bankruptcy Rules 7026 through 7037 shall be served at least seven (7) days before the return date. Where such service is made, any answering papers shall be served so as to ensure actual receipt not later than three (3) days before the return date. Discovery-related motions need only be served on the parties to the adversary proceeding or contested matter to which the discovery relates.

(b) *Motions Governed by Bankruptcy Rule 2002*. Motions governed by Bankruptcy Rule 2002 (including, without limitation, motions seeking approvals of compromises or settlements or motions regarding the proposed use, sale or lease of property), or for which specific time frames are prescribed in other Bankruptcy Rules, must be served and filed in accordance with the time limits set forth in those Bankruptcy Rules, subject to such modifications of those time limits as are permitted in those Rules.

(c) *All Other Motions.* Except as otherwise ordered by the Court, all motion papers not covered by subparagraphs (a) and (b) shall be served at least fourteen (14) days before the return date. Where service is made at least fourteen (14) days before the return date, any answering papers shall be served so as to ensure actual receipt not later than seven (7) days before the return date, and reply papers shall be served so as to ensure actual receipt not later than 4:00 p.m. three (3) days before the return date or on the date any agenda is required to be filled in accordance with any case management order entered in the case, unless the Court orders otherwise. Untimely papers may be rejected.

(d) *Time for Filing with Court.* Unless the Court orders otherwise, all motions and answering papers shall be filed with the Clerk not later than one day following the date of service.

Comment

This rule is derived from Former Local Bankruptcy Rule 13(c) and is an adaptation of Civil Rule 6.1 of the Local District Rules. Subdivision (b) of this rule is an exercise of the Court's authority contained in Bankruptcy Rule 9006(d) to enlarge the time for service of motion papers.

In 2009, subdivision (a) of this rule was amended to change the time period from five (5) to seven (7) days, and subdivision (b) of this rule was amended to change the time period from ten (10) to fourteen (14) days. The purpose of these amendments was to conform the time periods in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

The one (1)-day deadline in subdivision (a) was changed to three (3) days, and the three (3) day deadline in subdivision (b) was changed to seven (7) days, to give the Court and the parties more time to consider the answering papers before the hearing.

The one business day deadline in subdivision (c) of this rule was also amended in 2009 to delete the reference to "business" so that the time period will be consistent with the 2009 amendments to Bankruptcy Rule 9006(a).

The Bankruptcy Rules require minimum notice periods longer than fourteen (14) days with respect to certain proposed actions. Although subdivision (b) is intended to enlarge the time for service of motions under Bankruptcy Rule 9006(d), it is not intended to shorten minimum time periods specified in the Bankruptcy Rules. For example, Bankruptcy Rule 2002(a)(3) requires at least twenty-one (21) days' notice of the hearing on approval of a compromise and settlement. Therefore, if a trustee moves for approval of a compromise and settlement under Bankruptcy Rule 9019(a), the motion papers must be served at least 21 days before the hearing. Similarly, Rule 2002(a)(2) requires at least 21 days' notice of a proposed use, sale or lease of property, unless the Court shortens the time. The first sentence of subdivision (b) of this local rule was amended in 2013 to recognize such time periods required by the Bankruptcy Rules.

The second sentence of subdivision (b) was amended in 2013 to clarify that the seven-day requirement for service of answering papers applies when motion papers are served at least 14 days before the return date, even if the motion is served more than 14 days before the return date to comply with an applicable Bankruptcy Rule. For example, if a motion for approval of a compromise and settlement is served 21 days before return date to comply with Bankruptcy Rule 2002(a)(3), the answering papers must be served so as to ensure actual receipt at least seven days before the return date, unless the Court orders otherwise.

This rule was amended in 2016 to provide that replies, while permissible, must be received by the court no later than 4:00 p.m. three (3) days before the hearing date. Days should be counted in accordance with Bankruptcy Rule 9006(a).

In 2017, subdivision (b) of this rule was amended to clarify that the date of filing of an agenda may be modified by court order and that untimely filed papers may be rejected.

Subsection (a) of this rule was amended in 2024 to clarify the parties who are entitled to notice and service of discovery-related motions.

Rule 9006-2 AUTOMATIC EXTENSION OF TIME WHEN TIMELY MOTION TO EXTEND TIME IS FILED

Unless otherwise provided in the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, or order of the Court, when a motion to extend the time to take any action is filed before the expiration of the period prescribed by the Bankruptcy Code, Bankruptcy Rules, Local Bankruptcy Rules, or order of the Court, with a return date that is no later than fourteen (14) days after the date of such filing or, if the Court is unable to schedule a return date within such period, as soon thereafter as the return date may be scheduled by the Court, the time shall automatically be extended until the Court resolves the motion to extend the time. An automatic extension under this rule shall not require the issuance or entry of an order extending the time.

Comment

This rule was added in 2013 as an exercise of the Court's discretion to extend time under Bankruptcy Rule 9006(b) and to obviate the need for a "bridge order" in certain circumstances.

This local rule does not apply if an automatic bridge order would be inconsistent with a provision of the Bankruptcy Code, Bankruptcy Rules, Local Bankruptcy Rules, or order of the Court. For example, Local Bankruptcy Rule 9006-2 would not apply to motions to extend the time to file a plan or to confirm a plan in a small business case because, pursuant to section 1121(e)(3) of the Bankruptcy Code, such extensions require that the Court sign an extension order before the existing deadline expires. In addition, extensions of time for a lessee to assume or reject an unexpired lease of nonresidential real property are governed by Local Bankruptcy Rule 6006-1(c), which contains certain limitations, instead of Local Bankruptcy Rule 9006-2.

Rule 9011-1 SIGNING OF PAPERS

(a) All pleadings, motions, and other papers that are submitted for filing, except a list, schedule, or statement, or amendments thereto, shall be signed by an attorney of record in the attorney's own name or, if there is no attorney, all papers submitted for filing shall be signed by the party. The name of the attorney or party shall be clearly printed or typed below the signature, together with the attorney's or party's address and telephone number.

(b) The signing of documents filed electronically shall be governed by the Procedures for the Filing, Signing, and Verification of Documents by Electronic Means issued by the Court, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/5005-2-procedures.pdf). An original signed copy of the filing shall be maintained in the attorney's files.

(c) Any password required for electronic filing shall be used only by the attorney to whom the password is assigned and authorized members and employees of such attorney's firm.

(d) Litigants remain responsible for the accuracy and quality of legal documents produced with the assistance of technology (*e.g.*, ChatGPT, Google Bard, Bing AI Chat, or generative artificial intelligence services). Litigants are cautioned that certain technologies may produce factually or legally inaccurate content. If a litigant chooses to employ technology, the litigation continues to be bound by the requirements of Fed. R. Bankr. P. 9011 and must review and verify any computer-generated content to ensure it complies with all such standards.

Comment

This rule is an adaptation of Civil Rule 11.1 of the Local District Rules. This rule was amended in 2004 to conform to Civil Rule 11.1(b) of the Local District Rules to allow attorneys to use an identification number issued by the District Court instead of the last four digits of the attorney's social security number.

This rule was amended in 2008 to conform to the repeal of Civil Rule 11.1(b) of the Local District Rules, which previously required that every pleading, written motion and other paper signed by an attorney include the attorney's initials and the last four digits of the attorney's social security number or any other four digit number registered by the attorney with the clerk of the court.

Subdivision (a) was also amended in 2008 to conform to Rule 9011(a), which does not require an attorney's signature on lists, schedules, and statements.

Subdivision (b) was also amended in 2008 to provide that signing electronically filed documents is governed by the Court's standing order on electronically filed cases. This rule was amended in 2013 to specify the title to the procedures promulgated by General Order M-399 relating to electronic filing, signing and verification of documents, and to state the link to the Court's website where practitioners may access them. It is anticipated that these procedures, which also may be obtained from the Clerk, will be amended from time to time to account for changes in technology or the law.

Subdivision (d) was added in 2024 in light of the increases use of artificial intelligence in performing legal research and sometimes in

drafting papers. It is based on a rule adopted by the United States District Court for the Eastern District of Texas.

Rule 9013-1 MOTION PRACTICE

(a) *Rule or Statutory Basis.* Each motion shall specify the rules and statutory provisions upon which it is predicated and the legal authorities that support the requested relief, either in the motion or in a separate memorandum of law. If such specification has not been made, the Court may strike the motion from the calendar.

(b) *Service in Mega Chapter 11 Cases*. Unless the Court orders otherwise, any motion or application in a mega chapter 11 case for which the Bankruptcy Rules and/or these Local Rules require notice, but do not specify the entities to be served, shall be served upon the persons included on the Master Service List that is prepared and filed pursuant to Local Bankruptcy Rule 2002-5.

(c) *Entities to Receive Notice.* In addition to all entities otherwise entitled to receive notice, notice of a motion shall be given to any entity believed to have or be claiming an interest in the subject matter of the proposed order or who, it is believed, otherwise would be affected by the proposed order.

Comment

This rule is derived from Former Local Bankruptcy Rule 13. Local Bankruptcy Rule 7037-1 provides additional requirements for discovery-related motion practice.

This rule was amended in 2008 to delete the requirement that a separate memorandum of law be filed with every motion. A discussion of the law must be included in the motion or responsive pleading if a separate memorandum of law is not filed.

The rule was further amended in 2024 to add subparagraph (b), which makes clear that the Master Service List should be used in mega chapter 11 cases in instances in which the applicable Rules do not specify the persons to whom notice of a particular motion should be provided. Former subparagraph (b) was then redesignated as subparagraph (c).

Rule 9013-2 NOTICES OF PRESENTMENT WITH RESPECT TO CERTAIN APPLICATIONS

(a) *Notice of Motion upon Presentment and Opportunity for Hearing with Respect to Certain Motions, Applications, and Objections*

(1) *Use*. Unless the Court orders otherwise, where it is anticipated that a motion, application, or objection of a type set forth below will be uncontested, the motion, application, or objection may be made upon notice of presentment conforming

substantially to the appropriate form available on the Court's website at https://www.nysb.uscourts.gov/sites/default/files/9013-2_form_notice.docx:

(A) Application to confirm a sale pursuant to Local Bankruptcy Rule 6004-1;

(B) Application to avoid a judicial lien that impairs an exemption pursuant to section 522(f) of the Bankruptcy Code;

(C) Application for an examination pursuant to Bankruptcy Rule 2004 to the extent that the application is not granted ex parte;

(D) Application to approve a loan modification under Local Bankruptcy Rule 9019-2;

(E) Request for a post-confirmation order pursuant to Local Bankruptcy Rule 3021-1;

(F) Application in a chapter 7 case or a chapter 13 case to employ a professional person pursuant to section 327(a) of the Bankruptcy Code;

(G) Application for professional compensation for fees and costs not exceeding $1,000.00;

(H) Application for professional compensation for any remainder of an unpaid flat fee where the flat fee initially charged is less than $2,500.00; and

(I) Such other matters as the Court may specify in an individual case; *provided*, that this procedure may not be used with respect to applications or motions as to which the applicable Bankruptcy Rules and/or these Local Bankruptcy Rules require a hearing notwithstanding the absence of an objection.

(b) *Notice*. Unless the Court orders otherwise, notice of the presentment of an order pursuant to this subdivision must be filed with the Clerk and a copy must be delivered to the Judge's chambers and served upon the debtor, the trustee, each committee, the United States Trustee, all parties who have filed a notice of appearance and request for service of documents, and all other parties in interest. The notice must comport with the notice requirements under the applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Local Bankruptcy Rules that relate to the type of relief being sought.

(c) *Objection; Opportunity for a Hearing*. A written objection, if any, to the proposed order, together with proof of service, must be filed with the Clerk and a courtesy copy must be delivered to the Judge's chambers at least three (3) days before the date of presentment. Unless the Court orders otherwise, no hearing will be held absent the timely filing of an objection. If an objection has been timely filed, the Court will notify the moving and objecting parties of the date and time of any hearing.

(d) *Submission of Proposed Order*. The Court shall consider an application made by notice of presentment under this Local Bankruptcy Rule on or after the date of presentment. Any application made by notice of presentment under this Local Bankruptcy Rule must

include a copy of the proposed order. If there has been no objection or hearing date scheduled, and the presentment date has otherwise passed, the moving party must promptly submit a copy of the proposed order to chambers.

(e) *Hearings.* The Court may schedule a hearing on any matter submitted for presentment to address any question or issue that the Court wishes to raise.

Comment

This rule was added in 2024 and incorporates a portion of former Local Bankruptcy Rule 9074-1. It applies only to motions or applications of the types listed, and notice of such motions and applications must be made in accordance with the Bankruptcy Rules, Local Bankruptcy Rules, or any order of the Court.

Local Bankruptcy Rule 9013-3 adopts a "Certificate of No Objection" procedure that is intended to cover most of the situations in which "Notices of Presentment" were used under former Local Bankruptcy Rule 9074-1. The Court nevertheless has discretion under Local Bankruptcy Rule 9013-2(a) to permit the presentment procedure to be used with respect to additional types of motions or applications in an individual case. However, the presentment procedure is not available if any applicable provision of the Bankruptcy Code or the Bankruptcy Rules requires the Court to hold a hearing notwithstanding the absence of an objection, responsive pleading, or request for a hearing, such as a hearing on confirmation of a plan in a chapter 11 or chapter 13 case or a hearing on reaffirmation of a debt requested.

Rule 9013-3 CERTIFICATE OF NO OBJECTION

(a) *Filing a Certificate of No Objection*. If a motion or application has been filed and appropriate notice thereof has been served, and no objection, responsive pleading, or request for a hearing with respect to the motion or application has been filed or served before forty-eight (48) hours after the expiration of the time to file an objection, counsel for the moving party may file a certificate of no objection ("CNO"), with a copy to chambers, stating that no objection, responsive pleading, or request for a hearing has been filed or served on the moving party. The CNO must include the date of the filing and service of the motion or application, the deadline for filing an objection thereto, and a statement that counsel is filing the CNO not less than forty-eight (48) hours after the expiration of such deadline.

(b) *Representations to the Court.* By filing the CNO, counsel for the moving party represents to the Court that the moving party is unaware of any objection, responsive pleading, or request for a hearing with respect to the motion or application, that counsel has reviewed the Court's docket not less than forty-eight (48) hours after expiration of the time to file an objection, and that no objection, responsive pleading, or request for a hearing with respect to the motion or application appears thereon.

(c) *Entry of Order and Cancellation of Scheduled Hearing*. Unless an individual debtor not represented by an attorney is a party in the proceeding, or a hearing is required under the Bankruptcy Code or Bankruptcy Rules notwithstanding the absence of an objection, responsive pleading, or request for a hearing, upon receipt of the CNO, the Court may enter the order accompanying the motion or application without further pleading or hearing. If the Court enters the requested order following the filing of a CNO, but before the scheduled hearing date, then the hearing scheduled on the motion or application shall be cancelled. However, a hearing will proceed as scheduled following the filing of a Certificate of No Objection unless the Court has entered the requested order or the Court informs the parties that a hearing is not necessary.

Comment

This rule was added in 2013 and renumbered and revised in 2024 to provide a procedure for counsel to inform the Court that no timely objection, responsive pleading, or request for a hearing has been filed or served and to request that the Court enter the proposed order without a hearing. It applies only in situations where appropriate notice of a motion has been given in accordance with the Bankruptcy Rules, Local Bankruptcy Rules, or order of the Court. This procedure is not available if the Court is required to hold a hearing notwithstanding the absence of an objection, responsive pleading, or request for a hearing, such as a hearing on confirmation of a plan in a chapter 11 or chapter 13 case or a hearing on reaffirmation of a debt requested by an individual debtor not represented by counsel.

The rule is intended to replace most of former Local Bankruptcy Rule 9074-1, which provided for the use of notices of presentment in certain cases where a hearing was not required, or where notice was required but a motion was not mandatory. There has been widespread confusion as to the circumstances under which those portions of Local Bankruptcy Rule 9074-1 were applicable and the amounts of notice required for particular motions. Instead of modifying the way that motions and applications are made, Rule 9013-2 just provides that a hearing may be cancelled if the applicable rules do not require a hearing, there is no objection and the Court has no questions or issues to raise with the parties.

Rule 9014-1 CONTESTED MATTERS

Unless the Court orders otherwise, Rules 7(b) and 24 of the Federal Rules of Civil Procedure, as incorporated in Bankruptcy Rules 7007 and 7024, respectively, and Local Bankruptcy Rules 7005-1, 7037-1, 7016-1, 7024-1, 7026-1, 7027-1, 7030-1, 7033-1, 7034-1, 7036-1, 7052-1, 7055-1, 7055-2, and 7056-1, shall apply in contested matters.

Comment

This rule is an exercise of the Court's discretion under Bankruptcy Rule 9014 to make any rule in Part VII of the Bankruptcy Rules applicable to contested matters.

Rule 9014-2 FIRST SCHEDULED HEARING

The first scheduled hearing in a contested matter will not be an evidentiary hearing at which witnesses may testify, unless:

(a) the Court gives prior notice to the parties that such hearing will be an evidentiary hearing;

(b) the motion requests emergency relief and is made at the commencement of the case;

(c) the motion requests interim or final relief under sections 363(b), 363(c)(2)(B) or 364 of the Bankruptcy Code;

(d) the motion requests the Court's approval of rejection of an unexpired lease of real property under section 365(a) of the Bankruptcy Code, and a timely objection thereto is filed; or

(e) the hearing is on confirmation of a plan in a case under chapter 9, chapter 11, chapter 12, or chapter 13 of the Bankruptcy Code.

Comment

Bankruptcy Rule 9014(e), added in 2002, requires that the Court provide procedures that enable parties to ascertain at a reasonable time before any scheduled hearing whether the hearing will be an evidentiary hearing at which witnesses may testify. Local Bankruptcy Rule 9014-2 was added in 2004 to provide such a procedure. Nothing in Local Bankruptcy Rule 9014-2 precludes a party from requesting an evidentiary hearing at the first scheduled hearing and asking the Court to provide for notice thereof under paragraph (a).

Subdivision (f) of this rule was abrogated in 2013. Since this rule was adopted in 2004, there had been no general orders issued under subdivision (f), which could have made this paragraph misleading to practitioners. If the Court wants to specify another kind of contested matter in which an evidentiary hearing will be held at the first scheduled hearing, the Court may do so by amending this rule. Therefore, subdivision (f) is not necessary to give the Court flexibility to expand the list set forth in subdivisions (a) through (e).

Rule 9015-1 JURY TRIALS

A statement of consent to have a jury trial conducted by a Bankruptcy Judge under 28 U.S.C. § 157(e) must be filed not later than fourteen (14) days after the service of the last pleading directed to the issue for which the demand was made.

Comment

Section 157(e) of title 28 provides that a Bankruptcy Judge may conduct a jury trial on proper demand with the consent of the parties to the proceeding if the District Court has specifically designated the Bankruptcy Court to exercise such jurisdiction. The District Court, by order dated December 7, 1994, has specifically designated the Bankruptcy Court to conduct jury trials pursuant to section 157(e). Bankruptcy Rule 9015(b) provides that the time for filing a statement of consent to a jury trial shall be specified by local rule.

This rule provides a fourteen (14) day period for filing the statement of consent, which runs from the service of the last pleading, as specified in Bankruptcy Rule 7007.

This rule was amended in 2009 to change the time period from ten (10) to fourteen (14) days. The purpose of the amendment was to conform the time period in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Rule 9018-1 MOTIONS TO PUBLICLY FILE REDACTED DOCUMENTS AND TO FILE UNREDACTED DOCUMENTS UNDER SEAL

(a) Unless otherwise required by these Local Bankruptcy Rules, the Bankruptcy Rules, the Bankruptcy Code, General Order M-558, or order of this Court, requests to file under seal must consist of two parts: (i) a motion to seal and (ii) the documents to be sealed.

(b) The motion to seal must include:

(1) the grounds for sealing;

(2) the identity of any parties other than the moving party who will have access to the documents to be sealed;

(3) the duration of the seal;

(4) the time when the movant will either unseal the documents or retrieve the documents at the conclusion of the matter;

(5) a redacted copy of the documents sought to be sealed with only those redactions necessary to preserve confidentiality, made in good faith; and

(6) a proposed order that contains language indicating the order is without prejudice to the rights of any party in interest, or the United States Trustee, to seek to unseal the documents, or any part thereof.

(c) Upon filing the motion to seal, the moving party must hand deliver a hard copy of the motion to seal and the unredacted documents sought to be sealed to the Clerk's Office as well as a USB flash drive containing an electronic copy of the unredacted documents. The documents must be conspicuously marked "FILED UNDER PENDING MOTION TO SEAL."

Comment

This rule was added in 2016 to provide a uniform standard procedure for how to file motions under seal. The rule distinguishes between the motion, which should be filed publicly on the docket, and the documents to be sealed. The motion should include a redacted copy of the documents to be sealed. The time to file and serve the underlying motion for which purpose the motion to seal is being made should be in accordance with all applicable rules pertaining to service of the underlying motion.

Section (c) was amended in 2024 to add that the moving party must provide the Clerk's Office with an electronic copy of the unredacted documents in a USB flash drive. In addition to providing the Clerk's Office with a copy of the documents pursuant subsection (c), the moving party should refer to the individual Judge's chambers rules to provide a separate chambers copy of the sealing materials to the assigned Judge.

Rule 9019-1 ALTERNATIVE DISPUTE RESOLUTION

Alternative dispute resolution shall be conducted in the manner required by the Procedures Governing Mediation of Matters and the Use of Early Neutral Evaluation and Mediation/Voluntary Arbitration in Bankruptcy Cases and Adversary Proceedings, which shall be available on the Court's website (http://www.nysb.uscourts.gov/content/mediation-procedures).

Comment

Procedures governing mediation programs in bankruptcy cases and adversary proceedings were promulgated by General Order M-390. This rule was amended in 2013 to specify the title of the procedures promulgated by General Order M-390 amended by General Order M-452 and to state in the rule the link to the Court's website where practitioners may access the governing procedures. The Procedures Governing Mediation of Matters and the Use of Early Neutral Evaluation and

Mediation/Voluntary Arbitration in Bankruptcy Cases and Adversary Proceedings, which also may be obtained from the Clerk, may be amended by the Court after giving notice and opportunity for comment as is appropriate.

Rule 9019-2 LOSS MITIGATION FOR INDIVIDUAL DEBTORS WITH RESIDENTIAL REAL PROPERTY AT RISK OF FORECLOSURE OR IMMINENT DEFAULT

Loss mitigation procedures for the facilitation of consensual resolutions for individual debtors whose residential real property is at risk of loss to foreclosure or imminent default shall be governed by the Loss Mitigation Program Procedures promulgated by the Court, which shall be available on the Court's website (http://www.nysb.uscourts.gov/sites/default/files/LossMitigationProcedures.pdf).

Comment

This rule was promulgated in 2013 to include in the Local Bankruptcy Rules a reference to the Loss Mitigation Program Procedures established by General Order M-413 and modified by General Order M-451. These procedures, which also may be obtained from the Clerk, may be amended by the Court from time to time.

This rule was amended in 2017 to clarify that loss mitigation procedures may also apply to those at risk of imminent default.

Rule 9019-3 MEDIATION FOR DEBTORS WITH STUDENT LOAN DEBT

Mediation procedures for the facilitation of consensual resolution between debtor-borrowers with student loan debt and their lenders shall be governed by the Student Loan Mediation Before Litigation Program Procedures, which shall be available on the Court's website (https://www.nysb.uscourts.gov/sites/default/files/SLM_Procedures.pdf).

Comment

This rule was added in 2024 to provide that mediation of disputes relating to student loan debt shall be governed by the Court's student loan mediation program which was established on January 27, 2020 and to provide a link to the corresponding procedures on the website.

Rule 9020-1 DEFAULT SANCTIONS; IMPOSITION OF COSTS

(a) *Default Sanctions.* Failure of a party or counsel for a party to appear before the Court at a conference, complete the necessary preparations, or be prepared to proceed at the time set for trial or hearing may be considered an abandonment of the adversary proceeding or contested matter or a failure to prosecute or defend diligently, and an appropriate order of

the Court may be entered against the defaulting party with respect to either a specific issue or the entire adversary proceeding or contested matter.

(b) *Imposition of Costs.* If the Judge finds that the sanctions in subdivision (a) of this rule are either inadequate or unjust to the parties, the Judge may assess reasonable costs directly against the party or counsel whose action has obstructed the effective administration of the Court's business.

Comment

This rule is derived from Former Local Bankruptcy Rule 21 and is an adaptation of General Rule 5(b) and (c) of the Former District Rules.

Rule 9021-1 ENTRY OF ORDERS, JUDGMENTS, AND DECREES

The Clerk shall enter all orders, decrees, and judgments of the Court in the electronic filing system, which shall constitute docketing of the order, decree, or judgment for all purposes. The Clerk's notation on the appropriate docket of an order, judgment, or decree shall constitute the entry of the order, judgment, or decree.

Comment

This rule is derived from Former Local Bankruptcy Rule 19(a) and is an adaptation of Civil Rule 6.2 of the Local District Rules.

This rule supplements Bankruptcy Rule 9021, which provides that a judgment or order is effective when entered under Bankruptcy Rule 5003.

Rule 9023-1 MOTIONS FOR REARGUMENT

(a) A motion for reargument of a court order determining a motion must be served within fourteen (14) days after the entry of the Court's order determining the original motion, or in the case of a court order resulting in a judgment, within fourteen (14) days after the entry of the judgment, and, unless the Court orders otherwise, shall be made returnable within the same amount of time as required for the original motion. The motion must set forth concisely the matters or controlling decisions which counsel believes the Court has not considered. No oral argument shall be heard unless the Court grants the motion and specifically orders that the matter be re- argued orally.

(b) The expense of any party in obtaining all or any part of a transcript for purposes of a new trial or for amended findings may be a cost taxable against the losing party.

Comment

Subdivision (a) of this rule is derived from Former Local Bankruptcy Rule 13(j) and is an adaptation of Civil Rule 6.3 of the Local

District Rules. Subdivision (b) of this rule is derived from Former Local Bankruptcy Rule 33 and is an adaptation of Civil Rule 12 of the Former District Rules.

This rule does not apply to motions made under Bankruptcy Rule 3008 or 9024.

Subdivision (a) of this rule was amended in 2004 to conform with the 2004 amendments to Local District Rule 6.3.

Subdivision (a) of this rule was amended in 2009 to change the time periods from ten (10) to fourteen (14) days. The purpose of the amendment was to conform the time periods in this rule to the 2009 time-related amendments to the Federal Rules of Bankruptcy Procedure. Throughout the Bankruptcy Rules, as well as the Local Bankruptcy Rules, most time periods that are shorter than thirty (30) days were changed so that the number of days is in multiples of seven (7), thereby reducing the likelihood that time periods will end on a Saturday or Sunday.

Rule 9025-1 SURETIES

(a) *Execution by Surety Only.* If a bond, undertaking, or stipulation is required, an instrument executed only by the surety shall be sufficient.

(b) *Security for Bond.* Except as otherwise provided by law, every bond, undertaking, or stipulation shall be secured by (i) the deposit of cash or government bonds in the amount of the bond, undertaking, or stipulation, (ii) the undertaking or guaranty of a corporate surety holding a certificate of authority from the Secretary of the Treasury, or (iii) the undertaking or guaranty of two individual residents of the Southern District or Eastern District of New York, each of whom owns real or personal property within such district with a value of twice the amount of the bond in excess of the surety's debts, liabilities, legal exemptions, and obligations on other bonds, guaranties, undertakings, or stipulations.

(c) *Affidavit by Individual Surety*. In the case of a bond, undertaking, or stipulation executed by individual sureties, each surety must attach an affidavit of justification, giving the surety's full name, occupation, and residence and business addresses, and showing that the surety is not disqualified from acting as an individual surety under subdivision (d) of this rule.

(d) *Persons Who May Not Act as Sureties*. Members of the bar, administrative officers and employees of the Court, the marshal, and the marshal's deputies and assistants may not act as sureties in any pending case, adversary proceeding, or contested matter.

(e) *Approval of Bonds of Corporate Sureties*. Except as otherwise provided by sections 303 and 322(b) of the Bankruptcy Code, Bankruptcy Rule 2010, and Local Bankruptcy Rule 8007-1, all bonds, undertakings, and stipulations of corporate sureties holding certificates of authority from the Secretary of the Treasury, where the amount of such bonds or

undertakings has been fixed by a Judge, an order of the Court, a statute, or Local Bankruptcy Rule 8007-1, may be approved by the Clerk.

Comment

Subdivisions (a), (b), (c), and (d) of this rule are derived from Former Local Bankruptcy Rule 28 and are an adaptation of Civil Rule 65.1.1(a), (b), (d), and (e) of the Local District Rules. Subdivision (b) of this rule has been modified to conform to Civil Rule 65.1.1(b) of the Local District Rules. Subdivision (e) of this rule is derived from Former Local Bankruptcy Rule 29 and is an adaptation of Civil Rule 65.1.1(f) of the Local District Rules.

Subdivision (e) was amended in 2014 to change the reference to Local Bankruptcy Rule 8005-1 to Local Bankruptcy Rule 8007-1 to conform to the 2014 amendments to Part VIII of the Bankruptcy Rules.

Rule 9028-1 ACTION IN ABSENCE OF ASSIGNED JUDGE

In the absence of an assigned Judge, any other Judge who is available may act temporarily in the absent Judge's place. To obtain the assistance of an available Judge, the parties must communicate first with the chambers staff of the assigned Judge and, if chambers staff is unavailable, then with the Clerk.

Comment

This rule is derived from Former Local Bankruptcy Rule 6.

This rule is intended to assure that the business of the Court will not be impeded by the absence of an assigned Judge.

Rule 9033-1 PROPOSED FINDINGS AND CONCLUSIONS IN CERTAIN CORE PROCEEDINGS

If the Court determines that it cannot enter a final order or judgment consistent with Article III of the United States Constitution in a particular proceeding referred to the Court and designated as core under section 157(b) of title 28, and the Court hears the proceeding, Rule 9033(a), (b), and (c) of the Federal Rules of Bankruptcy Procedure shall apply.

Comment

This rule was amended in 2016 to provide greater clarity. The final portion of the rule previously read that if "the Court hears the proceeding, Rule 9033(a), (b), and (c) of the Federal Rules of Bankruptcy Procedure shall apply as if it is a non-core proceeding." The amendment deletes the final phrase "as it if is a non-core proceeding."

Rule 9037-1 REDACTION OF PERSONAL DATA IDENTIFIERS

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

(b) *Responsibility for Redaction.* The responsibility for redacting personal data identifiers (as defined in Bankruptcy Rule 9037) rests solely with counsel, parties in interest and non-parties. The Clerk, or claims agent if one has been appointed, will not review each document for compliance with this Rule. In the event the Clerk, or claims agent if one has been appointed, discovers that personal identifier data or information concerning a minor individual has been included in a pleading, the Clerk, or claims agent if one has been appointed, is authorized, in its sole discretion, to restrict public access to the document in issue and inform the filer of the requirement to file a motion to redact.

(c) *Motion to Redact Personal Identifiers.* Notwithstanding the requirements of Bankruptcy Rule 9037, a party seeking to redact personal identifiers from a document or a proof of claim, already filed with the court, must file a motion to redact the personal identifiers, in accordance with CM/ECF procedures, that identifies the proposed document for redaction by docket number or if applicable, by claim number. If a party seeks to redact documents filed in multiple cases, such as proofs of claim, the party must open a miscellaneous proceeding by filing a motion to redact with a list of all affected cases and/or documents, subject to fees in accordance with the Bankruptcy Court Miscellaneous Fee Schedule. Prior to filing the motion to redact, the party must contact the Clerk's Office to request that the Clerk's Office restrict the original image containing the personal data identifiers from public view on the docket.

(d) *Notice.* The filer must include a certificate of service at the time the motion to redact is filed, showing service to the following recipients: the debtor, anyone whose personal information has been disclosed, the case trustee (if any) and the United States Trustee.

(e) *Filing of Correctly Redacted Document or Claim.* Unless otherwise ordered by the court, the party seeking redaction must file a correctly redacted document or proof of claim within twenty-one days of the granting of the motion.

(f) *Filing Motions to Redact in Closed Cases*. The granting of a motion to redact in a closed case is ministerial in nature and does not impact the administration of the case. For that reason, a party seeking redaction in a closed case does not need to file a motion to reopen the case, and no fee for reopening shall be collected by the Clerk. A party seeking redaction may instead just file a motion to redact, with the proposed redaction included in the motion, and the case will remain closed.

(g) *Redaction Fee.* In accordance with the provisions of the Bankruptcy Court Miscellaneous Fee Schedule, the party filing a motion to redact personal identifiers from a document or proof of claim must pay a fee for filing such motion to redact in each case.

Comment

This rule was added in 2016 to make clear that redactions are the responsibility of the filing party. The rule also addresses situations involving the need to redact the same information filed in multiple cases.

The fee for filing a motion to redact does not apply to transcripts. Pursuant to the Judicial Conference Policy, attorneys or any other entity requesting the redaction of personal identifiers on a transcript must file a *Notice of Intent to Request Redaction*. The procedures for redacting transcripts are available on the court's website. (http://www.nysb.uscourts.gov/sites/default/files/pdf/TranscriptRestrictionsRedactionGuidelines.pdf)

This rule was amended in 2017 to clarify the process for filing a motion to redact in closed cases.

Rule 9070-1 CHAMBERS COPIES OF FILED PAPERS

Unless the Court directs otherwise, a copy of all complaints, answers, motions, applications, objections, and responses to any of the foregoing filed with the Court, other than proofs of claim, must be marked "Chambers Copy" and delivered or mailed to the Clerk's office located in the division in which the assigned Judge sits on the same day as the papers are filed with the Clerk or, if filed electronically, not later than the next day.

Comment

The rule is derived from Former Local Bankruptcy Rule 9(d) and (e). The next business day deadline in subdivision (b) of this rule was amended in 2009 to delete the reference to "business" so that the time period will be consistent with the 2009 amendments to Bankruptcy Rule 9006(a).

Former subdivision (a) of Rule 9070-1 (which provided that copies of papers would be submitted to the Clerk for transmittal to the United States Trustee) has been deleted as being inconsistent with current practice. Parties should serve papers directly upon the Office of the United States Trustee.

The portion of this Rule that remains was formerly subdivision (b). It was amended in 2013 to reduce the amount of paper submitted as chambers copies. Unless the Court directs otherwise, only certain papers specified in the rule, rather than all papers, must be delivered to chambers under this rule. The rule was also amended to permit the mailing of chambers copies to the Court and to eliminate the requirement that papers must be delivered in unsealed envelopes.

The chambers rules of the individual judges should be consulted to determine whether the judge assigned to a particular case wishes to receive chambers copies pursuant to this rule.

Rule 9072-1 CUSTODY OF EXHIBITS

(a) *Retention by Attorney*. Unless the Court orders otherwise, exhibits must not be filed with the Clerk, but must be retained in the custody of the attorney who produced them in Court.

(b) *Removal of Exhibits from Court.* Exhibits that have been filed with the Clerk shall be removed by the party responsible for the exhibits (i) if no appeal has been taken, at the expiration of the time for taking an appeal, or (ii) if an appeal has been taken, within thirty (30) days after the record on appeal has been returned to the Clerk. Parties failing to comply with this rule shall be notified by the Clerk to remove their exhibits, and, upon their failure to do so within thirty (30) days of such notification, the Clerk may dispose of the exhibits.

Comment

This rule is derived from Former Local Bankruptcy Rule 27 and is an adaptation of Civil Rule 39.1 of the Local District Rules. Former subdivision (c) of this rule has been included, as modified, in Local Bankruptcy Rule 8009-1(b).

As used in this rule, "exhibits" includes trial exhibits admitted into evidence, in a case, adversary proceeding, or contested matter.

Rule 9074-1 SUBMISSION OR SETTLEMENT OF AN ORDER, JUDGMENT, OR DECREE

Unless the Court orders otherwise, if, following a hearing or decision, the Court directs a party to submit or settle an order, judgment, or decree, the party, within fourteen (14) days of the issuance of the Court's ruling, must deliver the proposed order, judgment, or decree directly to the Judge's chambers upon not less than two (2) days' notice to all parties to the adversary proceeding or contested matter, except that such notice period shall not apply if all parties to the adversary proceeding or contested matter have consented in writing to the proposed order, judgment, or decree. Failure to submit or settle an order, judgment, or decree within the fourteen (14) day period may result in the imposition of sanctions, including, without limitation, (i) dismissal for failure to prosecute or (ii) an award of attorney's fees. One (1) day's notice is required of all counterproposals. Unless the Court orders otherwise, no proposed or counter-proposed order, judgment, or decree submitted or settled pursuant to this rule shall form a part of the record of the case, adversary proceeding, or contested matter.

Comment

This rule is derived from former Local Bankruptcy Rule 9074-1(a) and is an adaptation of Civil Rule 77.1 of the Local District Rules. It applies to the settlement of orders, judgments, and decrees following a hearing or decision.

Other provisions of former Local Bankruptcy Rule 9074-1 regarding the use of notices of presentment in situations in which "notice and a hearing" are not required, or in situations in which "notice" is required but a motion is not requires, have been eliminated and have been replaced by the provisions of new Local Bankruptcy Rules 9013-2 and 9013-3. There was widespread confusion as to the circumstances under which Local Bankruptcy Rule 9074-1 was applicable and whether it modified the notice requirements set forth in other Bankruptcy Rules. Local Bankruptcy Rule 9013-2 lists the types of applications or motions for which a "presentment" procedures is permissible, and new Local Bankruptcy Rule 9013-3 prescribes a "certificate of no objection" procedure for most motions or applications that are unopposed.

Rule 9075-1 REQUEST FOR HEARING

An objection to a proposed action or order shall constitute a request for a hearing.

Comment

This rule is derived from Former Local Bankruptcy Rules 13(i) and 45.

Rule 9076-1 STATUS CONFERENCES

(a) *In General.* Subject to the notice provisions of subdivision (c) of this rule, the Court, on its own motion or on request of a party in interest, may hold a conference, with or without a court reporter present, at any time during a case or proceeding, for any purpose consistent with the Bankruptcy Code, including:

(1) to address the posture and efficient administration of the case or proceeding; and

(2) to establish a case management or scheduling order.

(b) *Request for Conference*. A request for a conference may be made either in writing or orally at a hearing. Any request, whether written or oral, must (i) specify the matters proposed to be addressed at the conference, (ii) identify the parties who have a direct interest in such matters, and (iii) include such further information as may assist the Court in evaluating whether a conference should be held and in conducting the conference. If a conference is requested for a date prior to the appointment of a creditors' committee and

the retention of its counsel, the requesting party must state why the conference should not be delayed until after the appointment and retention. If made in writing, the request must be directed to the chambers of the Judge presiding over the case or proceeding and served, together with a copy of any papers submitted with the request, upon the following parties:

(1) in an adversary proceeding, to the parties to the adversary proceeding; or

(2) in a case or proceeding other than an adversary proceeding, to the debtor, the trustee, the United States Trustee, each official committee appointed to serve in the case (or, if no official committee has been appointed, the holders of the ten (10) largest unsecured claims), the holders of the five (5) largest secured claims, and each unofficial committee which previously has requested the opportunity to participate in conferences.

(c) *Notice of Conference*. If all necessary parties are present before the Court, the Judge may direct that a conference be held immediately without further notice. In the event that a conference is called under any other circumstances, unless the Court orders otherwise, as soon as practicable, the requesting party (or, if the conference is to be held on the Court's own motion, the debtor, the trustee, or such other party as the Court may direct) must provide notice of the time, date, place, and purpose of the conference, to the parties required to be served under subdivision (b) of this rule.

(d) *Submission of Proposed Case Management and Scheduling Orders*. If one of the purposes of the conference is to establish a case management or scheduling order, unless the Court orders otherwise, the party requesting the conference (or, if the conference is to be held on the Court's own motion, the debtor, the trustee, or such other party as the Court may direct) must submit to the Court prior to the conference, on notice to all necessary parties (as identified in subdivision (b) of this rule), a proposed case management or scheduling order. The submitting party in good faith must attempt to obtain the consent of all necessary parties (as identified in subdivision (b) of this rule) with respect to the form of the order and indicate to the Court whether such consent has been obtained.

Comment

This rule is an exercise of the Court's authority under section 105(d) of the Bankruptcy Code.

Rule 9077-1 ORDERS TO SHOW CAUSE; EX PARTE ORDERS

(a) *Orders to Show Cause.* No order to show cause shall be granted except upon a clear and specific showing by affidavit of good and sufficient reasons why proceeding other than by notice of motion is necessary. The affidavit also must state whether a previous application for similar relief has been made.

(b) *Ex Parte Orders.* No ex parte order in an adversary proceeding or contested matter shall be granted unless it is based upon an affidavit or motion showing cause for ex parte

action as well as cause for the relief requested, and states whether a previous application for similar relief has been made.

Comment

Subdivision (a) of this rule is derived from Former Local Bankruptcy Rule 13(d) and is an adaptation of Civil Rule 6.1(d) of the Local District Rules. Subdivision (b) of this rule is derived from Former Local Bankruptcy Rule 19(b).

Rule 9078-1 CERTIFICATE OF SERVICE

Unless the Court orders otherwise, any party serving a pleading or other document must file proof of service by the earlier of (i) three (3) days following the date of service, and (ii) the hearing date.

Comment

This rule is derived from Former Local Bankruptcy Rule 45(d).

Although Former Local Bankruptcy Rule 45(d) applied only to proofs of service of notices, this rule applies to proofs of service of all pleadings and documents. The general requirements for service of notices are contained in Local Bankruptcy Rule 2002-1.