

# Local Rules of the United States Bankruptcy Court for the Eastern District of Kentucky

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# Local Rules of the United States Bankruptcy Court for the Eastern District of Kentucky

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## **RULE 1001-1. CITATION & AUTHORITY**

These rules are the Local Rules of the United States Bankruptcy Court for the Eastern District of Kentucky, and may be cited as KYEB LBR \_\_\_\_\_ - \_\_\_\_.

Except as otherwise defined in the Local Rules, terms will have the meaning given them in the Bankruptcy Code. The following defined terms are used herein:

- (a) “APM” means the Administrative Procedures Manual promulgated by the Court which is posted on the Court’s Website.
- (b) “Bankruptcy Code” means 11 U.S.C. 101 *et seq.*
- (c) “Bankruptcy Court” or “Court” means the United States Bankruptcy Court for the Eastern District of Kentucky.
- (d) “Certified User” means a party certified to use the ECF System in accordance with the APM.
- (e) “Court’s Website” means the official website of the Bankruptcy Court, currently at [www.kyeb.uscourts.gov](http://www.kyeb.uscourts.gov).
- (f) “District Court Local Rules” means the local rules for the United States District Court for the Eastern District of Kentucky.
- (g) “ECF System” means Electronic Case Filing System.
- (h) “FRBP” means Federal Rules of Bankruptcy Procedure.
- (i) “FRCP” means Federal Rules of Civil Procedure.

## **RULE 1001-2. ORGANIZATION OF LOCAL RULES**

The local rules are numbered to correspond to the number of the Federal Rule of Bankruptcy Procedure dealing with the same general subject as required by the Uniform Numbering System for Local Bankruptcy Rules; and thus, are not always consecutively numbered.

## **RULE 1001-3. APPLICATION**

Unless otherwise ordered by the Court, these local rules apply to all Bankruptcy Code cases and adversary proceedings pending on or after January 1, 2013. Unless referred to in the District Court Local Rules list posted on the Court’s Website, the District Court Local Rules do not apply to cases and proceedings in the Bankruptcy Court.

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## **RULE 1002-2. VOLUNTARY PETITION – LEGAL ENTITY**

- (a) The petition of a legal entity that is not an individual must include a resolution or other sufficient evidence of authority of the officer(s), director(s), manager(s), member(s) or other person as required by the relevant governing documents and/or statutes applicable to the debtor:
  - (i) authorizing the debtor to request relief under a particular chapter of the Bankruptcy Code; and
  - (ii) designating the individual authorized to sign the petition on behalf of the entity.
- (b) At the time the petition is filed, the debtor must tender a proposed order designating the person(s) identified in subpart (a) above as the individual(s) designated to perform the duties of the debtor set out in FRBP 4002 and 9001(5)(A).

## **RULE 1006-1. FEES – INSTALLMENT PAYMENTS**

- (a) When leave is granted in accordance with FRBP 1006 to pay in installments, and unless otherwise ordered, the debtor must pay the applicable fees and charges required by 28 U.S.C. §1930 in not more than 4 equal monthly installments in the amounts posted on the Court's Website.
- (b) Payment of installments through a chapter 13 plan is not allowed.

## **RULE 1007-1. LISTS, SCHEDULES & STATEMENTS**

- (a) The Statement of Social Security Number(s) (Official Form B21) required by FRBP 1007(f) must not be included in an electronically filed petition.
- (b) Any paper petition filed must include the Statement of Social Security Number(s) (Official Form B21) required by FRBP 1007(f).
- (c) Copies of all payment advices or other evidence of payment from any employer of the debtor received by the debtor within 60 days before the date of the filing of the petition:
  - (i) must not be filed with the court unless otherwise ordered; and
  - (ii) must be provided within 14 days of the filing of the petition to:
    - (A) the trustee;
    - (B) with the exception of chapter 13 cases, to the U.S. Trustee; and
    - (C) to any creditor who timely requests copies of the payment advices or other evidence of payment.

## **RULE 1007-2. MAILING – LIST**

- (a) A petition initiating a case under the Bankruptcy Code must be accompanied by a separate mailing list containing the name, address and zip code of all entities to be

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notified of the case including those listed in Schedules D - H. For a petition filed electronically, the entities uploaded to the case will suffice as the mailing list.

- (b) The mailing list filed with a chapter 7, chapter 9, chapter 12, chapter 13, or chapter 15 petition must include the address of the Internal Revenue Service or the Kentucky Department of Revenue only when the debtor owes a debt to those entities or, in a chapter 13 case, when the debtor has not filed all required tax returns for taxable periods ending during the 4-year period prior to the filing of the petition.
- (c) The mailing list submitted with a chapter 11 case must contain the address of the Internal Revenue Service and the Kentucky Department of Revenue whether or not the debtor is indebted to such taxing entity.
- (d) The address to be used for the Internal Revenue Service and the Kentucky Department of Revenue in the mailing list is posted on the Court's Website.
- (e) If the debtor is a legal entity that is not an individual, the names and last known addresses of the debtor's representative designated pursuant to KYEB LBR 1002-2, equity security holders, general partners or other person or party that has an ownership interest of any nature in the debtor, must be included on the mailing list.
- (f) Each mailing list referred to in these Local Rules must comply with the mailing list specifications posted on the Court's Website.

## **RULE 1008-1. VERIFICATION OF PETITION & ACCOMPANYING PAPERS**

If a petition is filed without the schedules and statements as permitted by FRBP 1007(c), the mailing list will suffice as a list of all entities to be notified of the bankruptcy case only if it is accompanied by an unsworn declaration of the debtor(s) as required by FRBP 1008.

## **RULE 1009-1. AMENDMENTS TO LISTS, SCHEDULES & STATEMENTS**

- (a) An amendment must be signed by the debtor(s) and must be served by the debtor(s) on the trustee and any affected entity.
- (b) An amendment adding or deleting any person or changing the address of a person on Schedules D – H must include a separate mailing list identifying the name and address of only the entities added or affected by the amendment. If a mailing list does not accompany the amendment, the clerk may delay adding the entity name to the mailing database until the mailing list is provided.
- (c) In addition to the amendment, the debtor must serve a copy of the original "Notice of Commencement of Case" and the Statement of Social Security Number on any party added to schedules D through H.
- (d) If a Statement of Social Security Number(s) was incorrect when submitted or filed, an amendment must be filed and the debtor must serve a copy of the amendment with the complete and corrected social security number on all parties previously

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served with the “Notice of Commencement of Case”. Within 7 days of such service, the debtor must file a certificate of service that debtor has complied with this requirement. Notwithstanding the foregoing, neither the electronically filed amendment nor its certificate of service should include any documentation showing the debtor’s complete social security number.

## **RULE 1071-1. DIVISIONS – BANKRUPTCY COURT**

- (a) The divisions of the Bankruptcy Court are posted on the Court's Website.
- (b) A motion requesting that hearings in a case be held in a division of the Court other than the division to which the case is assigned must be filed at the time the original petition is filed unless otherwise ordered by the Court. Except in chapter 11 cases, the Court may act on such motion without the necessity of notice or hearing.

## **RULE 1073-1. ASSIGNMENT OF CASES**

Bankruptcy petitions are assigned by the clerk to the division that contains the county in which the debtor resides at the time of filing. For purposes of assignment, the residence of a debtor who is not an individual is the location of debtor’s registered agent for service of process within the District; or if none, in the division where debtor has its principal place of business in the District.

## **RULE 1075-1. INCORPORATION OF INTERIM BANKRUPTCY RULE 1007-I**

Interim Rule 1007-I is applicable in this District until such time that FRBP 1007 is amended in accordance with the National Guard and Reservist Debt Relief Act of 2008, Pub. L. 110-438, as amended by Pub. L. 112-64, or the law expires without being extended by subsequent legislation. Interim Rule 1007-I is available at [www.uscourts.gov/RulesAndPolicies/rules/current-rules.aspx](http://www.uscourts.gov/RulesAndPolicies/rules/current-rules.aspx).

## **RULE 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED PARTIES – GENERAL 14 DAY NOTICE REQUIREMENT**

- (a) Unless the Bankruptcy Code or a Federal Rule of Bankruptcy Procedure specifically requires otherwise, any notice of a deadline or hearing must include a certificate of service indicating that each party served has been given at least 14 days notice of the deadline or hearing date.
- (b) At the discretion of the Court, matters may be heard on less than 14 days notice when accompanied by a request to shorten notice as set forth in KYEB LBR 9014-1.

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## **RULE 2003-1. MEETING OF CREDITORS & EQUITY SECURITY HOLDERS**

- (a) Trustees may continue the §341 meeting without the need for Court Order. Any required service of the notice of the continued meeting date, time and place shall be the responsibility of counsel for the debtor.
- (b) Unless continued as provided in subpart (a), a request to continue the §341 meeting may be made by motion which states the basis for the request, the number of prior continuances and why the meeting was not continued pursuant to subpart (a). The motion must be served on the trustee, U.S. Trustee, and all the entities listed on the mailing list and may be acted upon by the Court without a hearing. A continued §341 meeting must be set at the convenience of the trustee.

## **RULE 2004-1. DEPOSITIONS & EXAMINATIONS**

An order on a motion for an examination under FRBP 2004 may be entered without a hearing unless an objection is filed within 3 days after the motion is filed.

## **RULE 2012-1. SUBSTITUTION OF TRUSTEE OR SUCCESSOR TRUSTEE – ACCOUNTING**

Subject to any applicable rule of professional conduct or privilege, the successor trustee is entitled to possession of all books and records of the previous trustee related to the bankruptcy case. The previous trustee has the right to maintain copies of or view the books and records in the hands of the successor trustee to prepare a tax return or for other legitimate uses.

## **RULE 2014-1. EMPLOYMENT OF PROFESSIONALS**

A party seeking an order to employ a professional under FRBP 2014 may request approval on notice and opportunity for hearing for the longer of (a) 21 days after the filing of the petition; or (b) 14 days after filing the application.

## **RULE 2015-1. TRUSTEE EXPENDITURES AND INTERIM DISTRIBUTIONS**

- (a) A trustee may pay, without prior Court approval, the following:
  - (i) bank servicing fees to the extent authorized by the Uniform Depository Agreement that exists between the bank used by the trustee as a depository for estate funds and the United States Trustee;
  - (ii) bond premiums required by 11 U.S.C. §322(a); and
  - (iii) obligations to taxing agencies arising under 11 U.S.C. §507(a)(2), provided that the estate is, and is likely to remain, administratively solvent.
- (b) Nothing in this Rule excuses a trustee from maintaining proper documentation of all expenses paid and itemizing all expenses incurred in a Final Report.



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- (c) Before filing any motion to make an interim distribution to creditors, a chapter 7 trustee must submit to the U.S. Trustee a copy of the motion together with an Estate Property Record and Report (United States Trustee Form 1), a Cash Receipt and Disbursement Record (United States Trustee Form 2), and the proposed dividend distribution. The chapter 7 trustee must allow at least 14 days for the U.S. Trustee to review the submissions before filing the motion to make interim distribution. Within 14 days of the trustee's filing of a motion to make an interim distribution, the U.S. Trustee must file a statement that the motion has been reviewed with
- (i) no objection, or
  - (ii) state an objection to the motion.

## **RULE 2016-1. COMPENSATION OF PROFESSIONALS**

- (a) All fee applications must substantially conform with the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed Under 11 U.S.C. §330. See 28 CFR Appendix A to Part 58.
- (b) All fee applications, including interim and supplemental applications, shall include a summary that shows total fees and expenses previously applied for, granted and/or denied.
- (c) Service of an application for compensation or reimbursement of expenses that is for \$1,000 or less may be limited to the debtor, debtor's counsel, trustee, and/or committee, as applicable, on 14 days notice.

## **RULE 2016-2. COMPENSATION OF ATTORNEYS IN CHAPTER 13 CASES**

- (a) The debtor's attorney in a chapter 13 case may accept – in lieu of filing an itemized application for compensation – a presumptively reasonable fee in an amount up to and including \$3,500, provided a plan is confirmed and
- (i) debtor and counsel for debtor agree to and execute the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys set forth in Local Form 2016-2a; and
  - (ii) within 14 days of the filing of the petition, counsel for the debtor files a Certification that substantially complies with Local Form 2016-2b.
- (b) The presumptively reasonable fee includes:
- (i) all services rendered up to and including confirmation of a plan as set forth in the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys;
  - (ii) services rendered in post-confirmation matters referenced in the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys; and
  - (iii) representation in any two (2) post-confirmation matters from the following list:

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- Responding to a motion to dismiss the case for failure to make plan payments;
  - Responding to a motion for relief from stay;
  - Filing a motion to modify the plan to address a delinquency (including a motion to suspend plan payments);
  - Addressing a trustee's motion to modify the plan;
  - Filing an application to incur debt; or
  - Filing a motion to sell property.
- (iv) All expenses incurred in connection with the above, excluding filing fees and reimbursement of actual costs for required prepetition credit counseling.
- (c) The presumptively reasonable fee does not include:
- (i) Defense of any adversary proceeding;
  - (ii) Representation in any unanticipated litigation or contested proceeding(s) arising from the debtor's failure to provide complete and accurate information to the attorney; or
  - (iii) Representation in any matter not otherwise addressed in the Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys.
- (d) The presumptively reasonable fee may be allowed in the order confirming the plan without further order.
- (e) Any compensation or reimbursement of expenses sought in excess of the presumptively reasonable fee of \$3,500 must be requested by filing an itemized application for compensation under FRBP 2016 and KYEB LBR 2016-1.
- (f) An attorney seeking compensation for services rendered in a case dismissed or converted prior to confirmation of a plan may file an itemized application for compensation under FRBP 2016 and KYEB LBR 2016-1 within 14 days after entry of the order of dismissal or conversion. The trustee will pay any allowed fee to the attorney to the extent funds are available after payment of pre-confirmation adequate protection payments, prior to returning any remaining funds to the debtor.

## **RULE 2016-3. DISCLOSURE OF COMPENSATION**

If an attorney commences representation of the debtor in a case or in connection with a case after the filing of the petition, such attorney must file the statement required by FRBP 2016(b) no later than 14 days after commencement of representation.

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## **RULE 2081-2. CHAPTER 11 – COMPLEX CASES**

- (a) A complex chapter 11 is defined as a case under chapter 11 of the Bankruptcy Code that requires special scheduling and other procedures because of a combination of one or more of the following factors:
- (i) the need for “first day” emergency hearings for consideration of the use of cash collateral, debtor in possession financing, and other matters vital to the survival of the business;
  - (ii) the size of the case including the amount of debt, number of related debtors, number of creditors and/or parties-in-interest;
  - (iii) claims against the debtor in possession and/or equity interests in the debtor in possession are publicly traded (with some creditors possibly being represented by indenture trustees);
  - (iv) the need for simplification of noticing and hearing procedures to reduce delays and expense; and
  - (v) other factors deemed relevant by the Court.
- (b) If the debtor in possession believes that the case is a complex chapter 11, the debtor in possession must file a “Notice of Designation as Complex Chapter 11 Case” with the petition, or move for such designation if the notice was not timely filed.
- (c) For a case that is a complex chapter 11, the debtor in possession may file a motion to address matters such as the establishment of a master service list, the scheduling of hearings, and other matters it deems necessary. Such a motion may be treated as a First Day Matter under KYEB LBR 2081-3.

## **RULE 2081-3. CHAPTER 11 – REQUESTS FOR FIRST DAY RELIEF**

- (a) Definition. A motion or application in which the debtor in possession requests a hearing or the entry of an order on an expedited basis after the entry of the order for relief will be considered a “First Day Matter” and will be governed by this rule.
- (b) Scope of First Day Matters. A First Day Matter shall be confined to matters of a nature required to preserve the assets of the estate, to maintain ongoing business operations, establish procedures and such other matters as the Court finds appropriate.
- (c) Notice to the U.S. Trustee. When circumstances permit, counsel for the debtor must contact the U.S. Trustee at least 48 hours prior to filing the petition to advise the U.S. Trustee of the matters on which the debtor intends to seek first day relief and to permit the U.S. Trustee to have input on scheduling the First Day Matter hearing.

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- (d) Scheduling a Hearing on First Day Matters. Counsel for a debtor must contact the judges' chambers to schedule a hearing on First Day Matters.
- (e) Notice of Entry of First Day Orders. Within 2 business days following entry of an order regarding a First Day Matter, the debtor in possession must serve a copy of the order on the parties on an approved service list, if any, or on the creditors described in FRBP 1007(d), all secured creditors, the US Trustee and any other entity that the Court directs.
- (f) Reconsideration of a First Day Order. To the extent requested and allowed by the Court's schedule, a motion for reconsideration of an order regarding a First Day Matter will be given expedited consideration.

## **RULE 2082-2. CHAPTER 12 – CONFIRMATION OF PLAN**

A Chapter 12 plan must include a schedule of the debtor's projected gross income, expenses and net income for each component of debtor's operations contemplated by the plan.

## **RULE 2090-2. ATTORNEYS – DISCIPLINE & DISBARMENT**

An attorney who is currently under discipline by any court must notify the Bankruptcy Court Clerk of the sanction imposed within 7 days after becoming involved in a bankruptcy case or adversary proceeding before this Court; or, if sanctioned during a matter pending before the Court, within 7 days after being so sanctioned or disciplined.

## **RULE 3002-1. CLAIMS - BY CREDITOR HOLDING A CLAIM IN A CHAPTER 13 CASE**

- (a) Filing of Proof of Claim. A proof of claim filed by or on behalf of a creditor, including a creditor holding a secured claim, must be filed in a chapter 13 case before the trustee may make payment to such creditor in accordance with the plan and must contain a rebated balance as of the date of the filing of the petition with interest rebated to such date.
- (b) Agreed Orders Regarding Claims. An agreed order allowing a claim or affecting the secured status or payment of a secured claim will not be entered by the Court without a hearing unless the chapter 13 trustee is a signatory.

## **RULE 3002.1-1. EFFECT OF NOTICE UNDER FRBP 3002.1**

A notice filed under FRBP 3002.1 shall be deemed to supplement a proof of claim for informational purposes only, and does not constitute or otherwise amend the proof of claim. The chapter 13 trustee will not make payment based upon such notice unless otherwise ordered by the Court.

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## **RULE 3003-1. CLAIMS - CHAPTER 11 CASE**

Unless the Court orders otherwise, the time within which unscheduled claims or claims scheduled as disputed, contingent, or unliquidated may be filed in a chapter 11 case shall be the first date set for the hearing on approval of the disclosure statement.

## **RULE 3009-1. DIVIDENDS – CHAPTER 7 ASSET CASES – DEADLINE FOR AMENDING CLAIMS**

When estate funds are available in a chapter 7 case for payment of a dividend to creditors holding allowed unsecured claims, the deadline to file an amended claim for a deficiency remaining after the liquidation of collateral, or to request an extension of time to file an amended claim, is the last date for objecting to the trustee's application for compensation.

## **RULE 3015-1. CHAPTER 13 – PLAN**

- (a) A chapter 13 plan must conform to Local Form No. 3015-1.
- (b) At the time the chapter 13 plan is filed, the debtor must serve a copy of the plan upon all creditors and other parties in interest and must file a certificate of service.

## **RULE 3015-2. CHAPTER 13 – AMENDMENTS TO PLANS**

- (a) A modified chapter 13 plan filed before confirmation must be served on all creditors and parties in interest and must be accompanied by a certificate of service. The modified plan and any order confirming a modified plan should identify the plan as "The Modified Plan Dated \_\_\_\_\_."
- (b) Unless the Court orders otherwise, a modification will not be considered at the confirmation hearing unless it is both filed and served at least 7 days before the hearing.
- (c) Post-Confirmation Modification:
  - (i) A request to modify a confirmed plan under 11 U.S.C. §1329(a) must be made by motion and must contain the proposed modification and the reasons for the modification.
  - (ii) An agreed order modifying a confirmed plan will not be entered by the Court without a hearing unless the chapter 13 trustee is a signatory.

## **RULE 3015-3. CHAPTER 13 – CONFIRMATION**

- (a) Objections to Confirmation.
  - (i) An objection to confirmation of a chapter 13 plan must be filed with the court and served on the debtor, the attorney for the debtor and the chapter 13 trustee

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within 7 days after the date first set for the meeting of creditors. An objection to a modified plan must be filed within 7 days after the filing of a modified plan.

- (i) Notwithstanding the foregoing, an objection by a creditor holding a claim for a domestic support obligation based on 11 U.S.C. §1325(a)(8) may be filed at any time prior to entry of the order confirming the plan.
  - (ii) An agreed order resolving an objection to confirmation will not be entered by the Court without a hearing unless the chapter 13 trustee is a signatory.
- (b) Hearing on Confirmation. Notice to all parties of the hearing on confirmation and of the deadline for filing objections to confirmation of a chapter 13 plan may be combined with the notice of the meeting of creditors given under FRBP 2002. If no objection to confirmation is timely filed, the Court may, without a hearing, confirm the plan, and confirmation may occur earlier than 21 days after the date of the meeting of creditors under 11 U.S.C. §341(a).
- (c) Order of Confirmation. Unless otherwise ordered by the Court, the order of confirmation will be tendered by the chapter 13 trustee and must substantially conform to Local Form No. 3015-3. Unless served electronically by the ECF System, a copy of the order must be served promptly by the trustee on the debtor, debtor's counsel, and any creditor who timely filed an objection to confirmation of the plan.

## **RULE 3015-4. CHAPTER 13 PRE-CONFIRMATION ADEQUATE PROTECTION PAYMENTS**

- (a) Pre-confirmation adequate protection payments governed by 11 U.S.C. §1326(a)(1)(C) may only be made by the chapter 13 trustee. The debtor must make the payment as part of the total payment to the trustee, and the trustee must pay the amount provided by the plan to the secured creditor.
- (b) Adequate protection payments will not accrue or be paid until the creditor files a proof of claim. The principal amount of the creditor's claim must be reduced by the amount of the adequate protection payments paid by the trustee.
- (c) Upon dismissal of a case prior to confirmation, the trustee must first make the adequate protection payments required under this rule before disbursing the balance of funds.
- (d) At the time of making pre-confirmation adequate protection payments, the chapter 13 trustee will be entitled to collect the percentage fee in the amount fixed under 28 U.S.C. §586(e)(1)(B).

## **RULE 3017-1. DISCLOSURE STATEMENT – APPROVAL**

- (a) In a chapter 11 case, the proponent of a disclosure statement and plan must contact chambers to obtain an appropriate hearing date and time and must submit a

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proposed Order and Notice for Hearing on Disclosure Statement that substantially conforms to Official Form No. 12 which may be entered by the Court without notice or hearing.

- (b) The order must fix a deadline for filing objections to the disclosure statement, which ordinarily will be 7 days prior to the hearing on the approval of the disclosure statement.
- (c) The order must set forth the date fixed by KYEB LBR 3003-1 or, if applicable, other date set by the Court for filing proofs of unscheduled claims or claims scheduled as disputed, contingent, or unliquidated.
- (d) The proponent of the disclosure statement and plan must serve copies of the order setting the hearing on the approval of the disclosure statement as provided in FRBP 2002 and serve copies of the disclosure statement and plan on the parties specified in FRBP 3017(a).

## **RULE 3018-2. ACCEPTANCE/REJECTION OF PLANS - IN A CHAPTER 9 MUNICIPALITY OR A CHAPTER 11 REORGANIZATION CASE**

The proponent of the plan must file a summary of the results of the voting on the plan, including votes that were not counted, on or before 5 days prior to the hearing on confirmation of the plan.

## **RULE 3020-1. CHAPTER 11 – CONFIRMATION**

- (a) The proponent of an approved disclosure statement must submit a proposed order setting the date, time and location of the hearing on confirmation of the plan in substantial conformity to Official Form No. 13 (the “Hearing Order”).
- (b) The Hearing Order must fix a deadline for filing objections to confirmation of the plan, which ordinarily will be 7 days prior to the confirmation hearing.
- (c) The Hearing Order must fix the time within which holders of claims or interests may accept or reject the plan, which ordinarily will be 7 days prior to the confirmation hearing.
- (d) The proponent of the plan must cause a copy of the Hearing Order along with the disclosure statement, plan and ballot to be served as directed by FRBP 3017(d).

## **RULE 3071-1. CHAPTER 11 – POST-CONFIRMATION PROGRESS REPORT**

Unless the Court orders otherwise, the proponent of a confirmed plan must file a progress report on the action taken and progress made toward completion of administration of the estate within 45 days after entry of the order confirming the plan and every 6 months thereafter until entry of the final decree closing the case.

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## **RULE 3090. CHAPTER 12 – CONFIRMATION**

- (a) At the time of filing a chapter 12 plan, the debtor shall notice the confirmation hearing on the proposed plan for the next regularly scheduled hearing date for chapter 12 matters, provided all parties receive notice of the hearing as required by FRBP 2002(a)(8). The hearing date must be within 45 days of the filing of the plan.
- (b) The debtor may contact chambers if a different date is necessary to comply with subpart (a) and/or other applicable law.

## **RULE 4001-1. AUTOMATIC STAY - RELIEF FROM**

- (a) A motion to modify the automatic stay under 11 U.S.C. §362(d) regarding movant's interest in property of the estate or of the debtor must identify the property with respect to which relief is sought. The Court will not enter an order (including an agreed order) modifying the automatic stay or a codebtor stay unless a proof of claim with documentation establishing the perfected security interest or other interest of the movant in the property has been filed in the case. A motion to modify the automatic stay may be combined with a motion for abandonment of property of the estate under 11 U.S.C. §554.
- (b) A motion to modify the automatic stay for the purpose of pursuing a cause of action against the debtor must set out in detail relevant information concerning the action.
- (c) In a chapter 7 case, if the deadline for objection in a motion to modify the automatic stay expires prior to the Meeting of Creditors, as originally noticed or as continued, then both the motion and the order tendered to the Court must contain the following language:

The trustee will have 14 days from the conclusion of the Meeting of Creditors to object to abandonment of the property of the estate that is the subject of the motion. If no objection or motion for extension of time is filed prior to the expiration of this 14 day period, then the property will be deemed abandoned on the 15th day following the conclusion of the Meeting of Creditors, subject to FRBP 9006(a)(1).

- (d) In a chapter 13 case,
  - (i) If the stay is modified as to a claim secured by personal property which claim is being paid by the trustee under the chapter 13 plan, the creditor shall have 90 days from the entry of the order or notice of default terminating the stay to file an amended claim for the remaining unpaid balance. Until the amended claim is filed, the trustee has no obligation to make any payments on that claim. If an amended claim is not timely filed, the claim will be treated as satisfied in full.
  - (ii) If the stay is modified as to a claim secured by real property, then the time period within which to file an amended claim shall be 180 days from the entry of the



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order or notice of default terminating the stay. Until the amended claim is filed, the trustee has no obligation to make any payments on that claim. If an amended claim is not timely filed, the claim will be treated as satisfied in full.

- (iii) The trustee will continue to make adequate protection payments, as funds permit, to the extent that such payments represent accrued but unpaid adequate protection payments due until the date of the entry of the order terminating the stay.
- (iv) An agreed order modifying the stay will not be entered unless the chapter 13 trustee is a signatory.
- (e) In a chapter 7, chapter 12, or chapter 13 case, a motion to modify the automatic stay must be served on the debtor, counsel for the debtor, and the trustee.
- (f) In a chapter 11 case, a motion to modify the automatic stay must be served on the debtor in possession and counsel for the debtor in possession. If a trustee has been appointed, service must be made on the debtor, counsel for the debtor, the trustee and counsel for the trustee. In addition, if a committee has been appointed and has employed counsel, service must be made on counsel employed by a committee. In a chapter 11 case in which a committee has not been appointed or has not retained counsel, service must be made upon the creditors on the list filed pursuant to FRBP 1007(d) and the U.S. Trustee.
- (g) A motion to modify a codebtor stay pursuant to 11 U.S.C. §1201 or §1301 must be served on the codebtor, the debtor, counsel for the debtor, and the trustee.
- (h) FRBP 9014 mandates that relief from the automatic stay be requested by motion. The motion shall be styled in the same manner as the bankruptcy case and not as an adversary proceeding. A request for relief from the automatic stay appearing in a pleading filed in an adversary proceeding, unless also requested by separate motion filed in the related bankruptcy case, will be deemed as consent for the stay to remain in effect until final disposition of the adversary proceeding.

## **RULE 4001-2. CASH COLLATERAL OR OBTAINING CREDIT**

- (a) A motion for use of cash collateral, for authority to obtain credit, or a stipulation relating to same must contain:
  - (i) the total dollar amount of the funds requested,
  - (ii) the specific uses to which the funds will be put,
  - (iii) the debtor's proposed budget for the use of the funds,
  - (iv) the amount of debt asserted to be owed to any creditor claiming an interest in the collateral,
  - (v) the value of the collateral which secures the creditor's asserted interest, and
  - (vi) any proposal for providing adequate protection.

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- (b) If the debtor seeks authority to use cash collateral or to obtain credit on an emergency or expedited basis, the debtor must state the nature of the emergency requiring an expedited hearing and determination. The motion must be accompanied by copies of all documents evidencing perfection by which the interest of any entity claiming an interest in the cash collateral was created or perfected. Upon the request of the debtor, a creditor must promptly deliver copies of such perfection documents to the debtor to facilitate debtor's compliance with this subpart.
- (c) Unless otherwise ordered by the Court, a motion to use cash collateral, for authority to obtain credit, or a stipulation relating to same must be served on:
  - (i) all creditors who assert an interest in the collateral and their attorneys, if known;
  - (ii) any taxing authority that has a claim against the debtor;
  - (iii) counsel to any appointed committee, or if none, on the creditors on the list filed pursuant to FRBP 1007(d).
  - (iv) any parties who have filed a request for service of all pleadings, and
  - (v) the U.S. Trustee.
- (d) Except as set forth in subpart (e), the following provisions contained in an agreement between the debtor and the holder of a secured claim for use of cash collateral, for obtaining credit, or for adequate protection, or any order approving or authorizing the use of cash collateral, obtaining credit, or granting adequate protection, will be unenforceable on either an interim or final basis:
  - (i) any acknowledgment of the validity, amount, perfection, priority, extent or enforceability of the secured claim, if the agreement or order purports to bind any party other than the debtor;
  - (ii) any releases of liability for the creditor's alleged prepetition torts or breaches of contract, waiver of avoidance actions or waiver of defenses by the debtor or estate representative;
  - (iii) any postpetition lien which purports to secure any claim of a secured creditor other than:
    - (1) a claim arising from postpetition advances which constitute an additional nonreplacement extension of credit; or
    - (2) a claim representing the diminution in value of the secured claim after the commencement of the case;
  - (iv) any grant of a security interest in avoidance power recoveries available to a trustee; or
  - (v) any provision granting a creditor relief from the automatic stay without further order or hearing upon the breach of the cash collateral, adequate protection or postpetition financing order or agreement.

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- (e) Notwithstanding subpart (d), the Court may order the enforcement of any terms and conditions on the use of cash collateral, obtaining credit or granting adequate protection on a final basis, provided that:
  - (i) the proposed order or agreement specifically states that the proposed terms and conditions vary from the above requirements, and
  - (ii) any such proposed terms and conditions are conspicuously and specifically set forth in the proposed agreement or order.

## **RULE 4001-4. AUTOMATIC STAY – WAIVER OF**

A request for a waiver of the stay provided by FRBP 4001(a)(3) will not be granted unless:

- (a) an affidavit is filed setting forth the basis for the requested relief;
- (b) the debtor consents; or
- (c) the debtor's Statement of Intention filed pursuant to 11 U.S.C. §521(a)(2)(A) or the debtor's chapter 13 plan sets forth the debtor's intent to surrender the property.

## **RULE 4003-2. LIEN AVOIDANCE**

- (a) A motion to avoid a judicial lien pursuant to 11 U.S.C. §522(f)(1)(A) must:
  - (i) identify by filing date, county, book and page number, the judicial lien sought to be avoided;
  - (ii) identify the exempt property which the judicial lien encumbers and state the value of the property, the amount of the judicial lien, and the amount of all other liens on the property; and
  - (iii) the amount of the claimed exemption.
- (b) A motion to avoid a nonpossessory, nonpurchase money lien on exempt property pursuant to 11 U.S.C. §522(f)(1)(B) must:
  - (i) identify the personal property encumbered by the lien, including the value thereof,
  - (ii) state the amount of the claimed exemption; and
  - (iii) state that the lien is a nonpossessory, nonpurchase money security interest.
- (c) Any proposed order avoiding a lien under this rule shall state that, unless the bankruptcy case is dismissed, the avoided lien will not survive the bankruptcy case or affix to or remain enforceable against the debtor's interest in the property identified in the motion.

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## **RULE 4004-3. DISCHARGE IN INDIVIDUAL CHAPTER 11 CASES – REQUIREMENTS**

- (a) Debtor's Certification. Upon completion of all plan payments in an individual chapter 11 case, the debtor shall file the Certification of Plan Completion and Request for Discharge, Local Form 4004-3a. If the case was closed prior to the filing of the request for discharge, the request must be accompanied by a motion to reopen the case.
- (b) Time for Responses. Any response to the Chapter 11 Debtor's Certification and Request for Discharge must be filed within 14 days after the certification is filed.
- (c) Hardship Discharge. A motion by the debtor for a discharge under 11 U.S.C. §1141(d)(5)(B) must be accompanied by the Certification of Debtor Eligibility Regarding Request for Discharge Prior to Completion of Plan Payments, Local Form 4004-3b.

## **RULE 4004-4. DISCHARGE IN CHAPTER 12 CASES – REQUIREMENTS**

- (a) Trustee's Plan Completion Report. Upon the trustee filing a notice of plan completion, the trustee shall contemporaneously serve on the debtor and the attorney for the debtor (if any) a notice of plan completion and of the debtor's need to file a request for discharge.
- (b) Debtor's Certification. The debtor shall complete and file with the Court within 30 days of the date of the trustee's notice the Certification of Plan Completion and Request for Discharge, Local Form 4004-4a. Failure to file the certification could result in the case being closed without a discharge.
- (c) Time for Responses. Any response to the Certification of Plan Completion and Request for Discharge must be filed within 14 days after the certification is filed.
- (d) Hardship Discharge. Upon the filing of a motion by the debtor for a discharge under 11 U.S.C. §1228(b), the debtor shall contemporaneously file the Certification of Debtor Information Regarding Request for Hardship Discharge, Local Form 4004-4b. Failure to file the certification with the motion may result in denial of the relief sought.

## **RULE 4004-5. DISCHARGE IN CHAPTER 13 CASES – REQUIREMENTS**

- (a) Trustee's Plan Completion Report. Upon the trustee filing a notice of plan completion, the trustee shall contemporaneously serve on the debtor and the attorney for the debtor (if any) a notice to the debtor of plan completion and of the debtor's need to file a request for discharge.
- (b) Debtor's Certification. The debtor shall complete and file with the Court within 30 days of the date of the trustee's notice the Certification of Plan Completion and Request for Discharge, Local Form 4004-5a. Failure to file the certification could result in the case being closed without a discharge.

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- (c) Time for Responses. Any response to the Certification of Plan Completion and Request for Discharge must be filed within 14 days after the certification is filed.
- (d) Hardship Discharge. Upon the filing of a motion by the debtor for a discharge under 11 U.S.C. §1328(b), the debtor shall contemporaneously file the Certification of Debtor Information Regarding Request for Hardship Discharge, Local Form 4004-5b. Failure to file the certification with the motion may result in denial of the relief sought.

## **RULE 5005-4. ELECTRONIC FILING**

- (a) All Bankruptcy cases and adversary proceedings are assigned to the ECF System.
- (b) The Court has established procedures for electronic document filing, electronic service of pleadings and orders, and electronic noticing. These procedures are contained in these local rules and in the APM.
- (c) Electronic transmission of a document to the ECF System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the clerk, constitutes filing and service of the document as provided by KYEB LBR 9036-1 and for all purposes of the Federal Rules of Bankruptcy Procedure where electronic service is permitted and as required by the local rules of this Court, and constitutes entry of the document on the docket maintained by the clerk under FRBP 5003.

## **RULE 5070-1. CALENDARS & SCHEDULING**

- (a) Hearing dates, times and locations are posted on the Court's Website. Setting a matter for a hearing on an incorrect date, time, and/or location will result in a denial of the matter.
- (b) Notwithstanding subpart (a), all trials, evidentiary hearings, and summary judgment hearings will be set by the Court.

## **RULE 5077-1. TRANSCRIPTS**

This Court adopts the Schedule of Maximum Transcript Fees established by the Judicial Conference. These fees and the procedure for obtaining transcripts may be accessed via the Court's Website.

## **RULE 5081-1. FEES - FORM OF PAYMENT**

All fees and other sums payable to the Bankruptcy Court Clerk may only be paid by the methods posted on the Court's Website.

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## **RULE 6002-1. ACCOUNTING BY PRIOR CUSTODIAN OF PROPERTY OF THE ESTATE**

Unless otherwise ordered, the report and account required from a custodian by FRBP 6002 must be filed within 30 days of transfer of possession of the subject property.

## **RULE 6006-1. EXECUTORY CONTRACTS**

The trustee may request authority to assume or assign multiple executory contracts or unexpired leases in one motion under FRBP 6006(e), provided the request conforms in all material respects to the requirements in FRBP 6006(f).

## **RULE 6008-1. REDEMPTION**

A Motion to Redeem property from a lien under 11 U.S.C. §722 must:

- (1) specify the item of personal property to be redeemed;
- (2) identify all creditors holding liens on the property to be redeemed; and
- (3) set forth the proposed redemption amount and the date by which the redemption amount will be paid.

The motion must be served on the lienholder as provided by FRBP 7004(b).

## **RULE 7009-1. SETTLEMENT OF ACTION IN WHICH FRAUD IS ALLEGED**

Unless an agreement contains an admission of fraud or willful and malicious injury by the debtor and the debtor is represented by counsel, any agreement which purports to settle a matter in which fraud or willful and malicious injury was alleged, including compromises of actions under 11 U.S.C. §523(a)(2), (4), or (6), must be set for hearing before the Court. Plaintiff's attorney, or, if pro se, the plaintiff, debtor's attorney, and the debtor must appear at the hearing.

## **RULE 7026-1. DISCOVERY – GENERAL**

- (a) Unless otherwise ordered by the Court, prior to a request for discovery, a party to an adversary proceeding or contested matter is not required to make the disclosures required by FRCP 26(a)(1) – (3) as made applicable by FRBP 7026.
- (b) Unless otherwise ordered by the Court, the provisions of FRCP 26(f) as made applicable by FRBP 7026 do not apply in adversary proceedings or contested matters.

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## **RULE 7067-1. REGISTRY FUND**

- (a) A party may file a motion and tender an order requesting that the clerk act as custodian for funds pending resolution of litigation or determination of ownership as provided under 28 U.S.C. §2041 and §2045. Unless ordered otherwise, the clerk will invest funds deposited in an interest-bearing account or instrument through the Court Registry Investment System.
- (b) As custodian for registry deposits, the clerk has the authority without further orders of the court to periodically assess and deduct a registry fund management fee as provided by Judicial Conference policy from any income earned on the investment.
- (c) A Court order is required before the clerk may distribute the principal and the accrued interest which exceeds any amount due for the registry fund management fee. Parties may be required to provide the clerk with taxpayer identification information before disbursements of funds will be made.
- (d) Parties who request deposit of funds in non-interest bearing accounts or who desire the funds to be maintained in a local depository pending determination of ownership should consult with the clerk regarding additional provisions to include in a registry fund deposit order before presenting any funds to the clerk.

## **RULE 9010-1. ATTORNEYS – NOTICE OF APPEARANCE**

An attorney entering an appearance in a case must be admitted to practice in the Eastern District of Kentucky or make application to practice pro hac vice. The Attorney General or any other bar member of the Department of Justice, or of any federal agency, need not seek admission pro hac vice to appear.

## **RULE 9013-1. MOTION PRACTICE**

- (a) Notice and Opportunity for Hearing. Unless a hearing is required by the Bankruptcy Code or Bankruptcy Rules, a motion or other request for relief may include a notice and opportunity for hearing setting forth the time within which objections must be filed and noticed for hearing. If no timely objection and notice of hearing is filed, the Court may grant the relief requested without further notice or hearing.
- (b) Motions Set for Hearing. If a motion or other request for relief is set for hearing other than as provided in subpart (a), any objection or response must be filed not less than 3 days before the scheduled hearing unless otherwise ordered by the Court.
- (c) Relief Without Notice and/or Hearing. Unless set forth below, a motion seeking action by the Court without notice and/or hearing must expressly state that the relief requested is sought without notice or hearing and provide the basis for that request. Matters which may be acted upon by the Court without notice or opportunity for hearing include:

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- (i) Motion to Reopen Case;
  - (ii) Motion to Change Hearing Locations (except in Chapter 11 cases);
  - (iii) Motion to Dismiss Duplicate Case;
  - (iv) Motion to Appear Pro Hac Vice;
  - (v) Motion to Continue Chapter 13 Confirmation Hearing;
  - (vi) Motion to Continue Meeting of Creditors;
  - (vii) Motion to Appoint Warning Order Attorney;
  - (viii) Motion to Pay Administrative Expenses less than \$1,000.00 except Professional Fees and Expenses;
  - (ix) Motion to Disburse Unclaimed Funds;
  - (x) Motion to Defer Payment of Filing Fee in Adversary Proceeding;
  - (xi) Motion to Refund Fees; and
  - (xii) Motions to Extend Time To Object to Discharge pursuant to FRBP 4004(b).
  - (xiii) Motion to Restrict Public Access pursuant to FRBP 9037.
- (d) Proposed Orders. A motion must include a proposed order tendered as an attachment as specified in the APM. Tendered orders must list parties to be served who will not be served by the ECF System.

## **RULE 9013-4. OBJECTIONS**

Objecting parties may file a separate proposed order tendered as an attachment to the objection as specified in the APM.

## **RULE 9014-1. CONTESTED MATTERS – HEARINGS ON MOTIONS**

- (a) A person may notice any motion, objection, application or other request for relief for hearing at the next regularly scheduled hearing date that complies with applicable notice requirements. All notices of hearing must include the date, time and location of the hearing. The calendar of hearing dates for each division and judge is posted on the Court's Website.
- (b) A person seeking to reduce any applicable notice period must clearly set out the request in the underlying motion, objection, application or other paper or in a separate motion.
- (c) If the Court orders a continuance during a hearing, the party who originally noticed the matter for hearing must renote the hearing.



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## **RULE 9019-1. SETTLEMENTS & AGREED ORDERS – COMPROMISE & ARBITRATION**

- (a) A motion to compromise a controversy must be filed in the main bankruptcy case and must include a list of any adversary proceedings involved and must state how each adversary will be affected.
- (b) At the same time as the motion referenced in subpart (a) is filed, the movant must file a “Notice of Pending Settlement” in each affected adversary proceeding.
- (c) All deadlines and other obligations in an adversary proceeding affected by a motion to compromise will remain in effect until the Court orders otherwise.

## **RULE 9022-1. JUDGMENTS & ORDERS - NOTICE OF**

- (a) Unless the Court directs otherwise, the party who tendered an order or judgment that is entered is responsible for serving a copy of the entered order or judgment on any party designated to receive notice of the order or judgment that was not served by the Court’s ECF System.
- (b) The party responsible for service of an order or judgment to be served other than by the ECF System must, within 7 days of the entry of the order or judgment, file a certificate of service stating the date service of the order or judgment was completed and the manner of service.

## **RULE 9070-1. EXHIBITS**

- (a) Filing. Exhibits must be filed electronically as set forth in the APM.
- (b) Admission of Evidence. Any exhibit that is admitted into evidence at a hearing or trial that has not been filed electronically prior to the hearing or trial must be filed electronically within 3 days after the hearing or trial.
- (c) Unscannable Exhibits. If an exhibit cannot be electronically filed, the party seeking to admit the exhibit must seek leave of the Court to admit and file the exhibit in an alternate medium.