

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

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## **TABLE OF CONTENTS**

RULE 1001-1. CITATION & AUTHORITY .....	4
RULE 1001-2. ORGANIZATION OF LOCAL RULES.....	4
RULE 1001-3. APPLICATION.....	4
RULE 1002-2. VOLUNTARY PETITION – LEGAL ENTITY .....	5
RULE 1006-1. FEES – INSTALLMENT PAYMENTS .....	5
RULE 1007-1. LISTS, SCHEDULES & STATEMENTS .....	5
RULE 1007-2. MAILING – LIST .....	5
RULE 1008-1. VERIFICATION OF PETITION & ACCOMPANYING PAPERS.....	6
RULE 1009-1. AMENDMENTS TO LISTS, SCHEDULES & STATEMENTS.....	6
RULE 1071-1. DIVISIONS – BANKRUPTCY COURT .....	7
RULE 1073-1. ASSIGNMENT OF CASES.....	7
RULE 1075-1. INCORPORATION OF INTERIM BANKRUPTCY RULE 1007-I.....	7
RULE 2002-1. NOTICE TO CREDITORS & OTHER INTERESTED PARTIES – GENERAL 14 DAY NOTICE REQUIREMENT .....	7
RULE 2003-1. MEETING OF CREDITORS & EQUITY SECURITY HOLDERS .....	8
RULE 2004-1. DEPOSITIONS & EXAMINATIONS.....	8
RULE 2012-1. SUBSTITUTION OF TRUSTEE OR SUCCESSOR TRUSTEE – ACCOUNTING .....	8
RULE 2014-1. EMPLOYMENT OF PROFESSIONALS .....	8
RULE 2015-1. TRUSTEE EXPENDITURES AND INTERIM DISTRIBUTIONS .....	8
RULE 2016-1. COMPENSATION OF PROFESSIONALS .....	9
RULE 2016-2. COMPENSATION OF ATTORNEYS IN CHAPTER 13 CASES.....	9
RULE 2016-3. DISCLOSURE OF COMPENSATION .....	11
RULE 2081-2. CHAPTER 11 – COMPLEX CASES.....	11
RULE 2081-3. CHAPTER 11 – REQUESTS FOR FIRST DAY RELIEF .....	11
RULE 2082-2. CHAPTER 12 – CONFIRMATION OF PLAN.....	12
RULE 2090-2. ATTORNEYS – DISCIPLINE & DISBARMENT .....	12

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

---

RULE 3002-1. CLAIMS - BY CREDITOR HOLDING A CLAIM IN A CHAPTER 13 CASE .....	12
RULE 3002.1-1. EFFECT OF NOTICE UNDER FRBP 3002.1 .....	13
RULE 3003-1. CLAIMS - CHAPTER 11 CASE .....	13
RULE 3009-1. DIVIDENDS – CHAPTER 7 ASSET CASES – DEADLINE FOR AMENDING CLAIMS.....	13
RULE 3015-1. CHAPTER 13 – PLAN .....	13
RULE 3015-2. CHAPTER 13 – AMENDMENTS TO PLANS .....	13
RULE 3015-3. CHAPTER 13 – CONFIRMATION.....	14
RULE 3015-4. CHAPTER 13 PRE-CONFIRMATION ADEQUATE PROTECTION PAYMENTS .....	14
RULE 3017-1. DISCLOSURE STATEMENT – APPROVAL .....	14
RULE 3018-2. ACCEPTANCE/REJECTION OF PLANS - IN A CHAPTER 9 MUNICIPALITY OR A CHAPTER 11 REORGANIZATION CASE .....	15
RULE 3020-1. CHAPTER 11 – CONFIRMATION.....	15
RULE 3070-1. CHAPTER 13 – PAYMENTS.....	15
RULE 3071-1. CHAPTER 11 – POST-CONFIRMATION PROGRESS REPORT .....	16
RULE 3090. CHAPTER 12 – CONFIRMATION .....	16
RULE 4001-1. AUTOMATIC STAY - RELIEF FROM.....	16
RULE 4001-2. CASH COLLATERAL OR OBTAINING CREDIT .....	17
RULE 4001-3. OBTAINING CREDIT TO PURCHASE VEHICLE .....	19
RULE 4001-4. AUTOMATIC STAY – WAIVER OF.....	19
RULE 4003-2. LIEN AVOIDANCE.....	19
RULE 4004-3. DISCHARGE IN INDIVIDUAL CHAPTER 11 CASES – REQUIREMENTS .....	20
RULE 4004-4. DISCHARGE IN CHAPTER 12 CASES – REQUIREMENTS.....	20
RULE 4004-5. DISCHARGE IN CHAPTER 13 CASES – REQUIREMENTS.....	21
RULE 5005-4. ELECTRONIC FILING.....	21
RULE 5009-1. SATISFACTION OF LIENS IN CHAPTER 12 OR 13 CASES .....	21
RULE 5070-1. CALENDARS & SCHEDULING .....	21

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

---

RULE 5077-1. TRANSCRIPTS .....	22
RULE 5081-1. FEES - FORM OF PAYMENT .....	22
RULE 6002-1. ACCOUNTING BY PRIOR CUSTODIAN OF PROPERTY OF THE ESTATE .....	22
RULE 6004-1. SALE FREE AND CLEAR OF LIENS AND OTHER INTERESTS .....	22
RULE 6006-1. EXECUTORY CONTRACTS .....	22
RULE 6008-1. REDEMPTION.....	22
RULE 7026-1. DISCOVERY – GENERAL .....	23
RULE 7067-1. REGISTRY FUND .....	23
RULE 9010-1. ATTORNEYS – NOTICE OF APPEARANCE .....	23
RULE 9013-1. MOTION PRACTICE .....	24
RULE 9013-4. OBJECTIONS.....	25
RULE 9014-1. CONTESTED MATTERS – HEARINGS ON MOTIONS.....	25
RULE 9019-1. SETTLEMENTS & AGREED ORDERS – COMPROMISE & ARBITRATION .....	25
RULE 9022-1. JUDGMENTS & ORDERS - NOTICE OF .....	25
RULE 9070-1. EXHIBITS .....	26

# 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 Joint Local Rules for the United States District Courts for the Eastern and Western Districts 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 referred to in the District Court Local Rules list posted in the APM on the Court’s Website, the District Court Local Rules do not apply to cases and proceedings in the Bankruptcy Court.

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

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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 identified in subpart (a) above as the individual 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 About Your Social Security Numbers" (Official Form B121) required by FRBP 1007(f) must not be included in an electronically filed petition.
- (b) Any paper petition filed must include the "Statement About Your Social Security Numbers" (Official Form B121) 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

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

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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 to a debtor's petition, schedules, statements or lists, must be signed by the debtor(s) and must be served by the debtor(s) on the trustee and any affected creditor or party-in-interest and may be in the form prescribed by Local Form 1009-1(a).
- (b) An amendment adding, deleting or changing the address of any creditor or party-in-interest on Schedules D – H must include a separate mailing list setting forth only the name and address of the creditor or party-in-interest set forth in the amendment. If a mailing list does not accompany the amendment, the clerk may delay updating the mailing database until the mailing list is provided.
- (c) In addition to the amendment, the debtor must serve a copy of the original "Certificate of Commencement of Case" and the "Statement About Your Social Security Numbers" on any party added to schedules D through H.

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

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- (d) If a “Statement About Your Social Security Numbers” 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 served with the “Certificate 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**

- (a) 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.
- (b) The judge to whom a case has been assigned has the primary responsibility with respect to all proceedings arising in, under, or related to that case; provided, however, all judges have concurrent jurisdiction and may act in any matter in the absence of, or with the consent of, the judge to whom the case or proceeding is assigned.

## **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

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

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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.

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

- (a) Trustees may continue the initial and any subsequently scheduled §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 U.S. Trustee;



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

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- (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.
- (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 C.F.R. pt. 58, app. A, or the Guidelines for Reviewing Applications for Compensation and Reimbursement of Expenses Filed under 11 U.S.C. §330 for Attorneys in Larger Chapter 11 Cases, see 78 Fed. Reg. 36248 (June 17, 2013) (modified 78 Fed. Reg. 40507) (effective Nov. 1, 2013) (to be codified at 28 C.F.R. pt. 58, app. B), as applicable.
- (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 2016-2(a)(i); and

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

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- (ii) within 14 days of the filing of the petition, counsel for the debtor files a Certification that substantially complies with Local Form 2016-2(a)(ii).
- (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:
    - Responding to a motion to dismiss the case for failure to make plan payments, including a motion to modify;
    - Responding to a motion for relief from stay;
    - Filing a motion to modify the plan (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 and certifying that the services for which compensation is sought are in addition to the services required to be performed by sub-part (b)(iii).
- (f) An attorney seeking compensation for services rendered in a case dismissed 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. The trustee will pay any allowed fee to the attorney to the extent funds are available after

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

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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.

## **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.

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

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- (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.
- (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 U.S. 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**

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.

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

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## **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.

## **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 3015-1(a).
- (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 must 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 more than 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.

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

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- (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 a modified plan must be filed within 7 days after the filing of a modified plan.
- (ii) 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.
- (iii) 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. 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 3015-3(c). 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. **[See General Order No. 20-3.]**

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

Pre-confirmation adequate protection payments governed by 11 U.S.C. §1326(a)(1)(C):

- (a) may only be made by the chapter 13 trustee; and
- (b) shall be proposed by the debtor using Local Form 3015-4(b), which shall be filed and served with the debtor's chapter 13 plan.

## **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 proposed Order and Notice for Hearing on Disclosure Statement that substantially conforms to Official Form No. B312 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.

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

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- (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. B313 (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 3070-1. CHAPTER 13 – PAYMENTS**

- (a) Payment Method. Unless otherwise ordered by the court or agreed to by the trustee, funding of a chapter 13 plan shall be by payroll deduction. Payroll deduction shall be effectuated by order of the court. The order must be tendered by the debtor with the filing of the plan and must be in substantial conformity with Local Form 3070-1(a). No motion for payroll deduction is necessary.
- (b) Probation Orders. If probation is ordered or agreed to in a chapter 13 case, the probation order tendered by the chapter 13 trustee or the debtor shall be in conformity with Local Form 3070-1(b).

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

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## **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.

## **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) 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) An agreed order modifying the stay will not be entered unless the trustee is a signatory.
- (e) In a chapter 13 case,



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

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- (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, unless extended by agreement with the trustee or by order of the court, within which 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.
- (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 for the remaining unpaid balance shall be 210 days from the entry of the order or notice of default terminating the stay, unless extended by agreement with the trustee or by order of the court. Until the amended claim is filed, the trustee has no obligation to make any payments on that claim.
- (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.
- (f) 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.
- (g) 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.
- (h) 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.
- (i) 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 or stipulation for use of cash collateral or for authority to obtain credit, must contain:
  - (i) the total dollar amount of the funds requested,
  - (ii) the specific uses to which the funds will be put,

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

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- (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.
- (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 or stipulation to use cash collateral or for authority to obtain credit, 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, obtaining credit, or 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;

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

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- (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.
- (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 4001-3. OBTAINING CREDIT TO PURCHASE VEHICLE**

A motion and proposed order to obtain credit to purchase a vehicle shall conform to Local Form 4001-3-1 and Local Form 4001-3-2, respectively.

## **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 request confirms that 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) shall include a proposed order that conforms to Local Form 4003-2(a).
- (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.

Further, the proposed order avoiding a lien shall state that, unless the bankruptcy case is dismissed, the avoided lien will not survive the bankruptcy case or affix to or

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

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remain enforceable against the debtor's interest in the property identified in the motion.

- (c) A request for release of a judicial lien filed in the local real property records against a debtor that did not own any real property on the petition date shall include a proposed order that conforms to Local Form 4003-2(c).

## **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 4004-3(a). 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 of Plan Completion 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 4004-3(c).

## **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 4004-4(b). 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 4004-4(d). Failure to file the certification with the motion may result in denial of the relief sought.

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

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## **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 4004-5(b). 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. §1328(b), the debtor shall contemporaneously file the Certification of Debtor Information Regarding Request for Hardship Discharge, Local Form 4004-5(d). 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 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 5009-1. SATISFACTION OF LIENS IN CHAPTER 12 OR 13 CASES**

A request for a declaration that a secured claim has been satisfied and the lien has been released under the terms of a confirmed plan shall include a proposed order that conforms to Local Form 5009-1.

## **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.

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

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(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.

## **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 6004-1. SALE FREE AND CLEAR OF LIENS AND OTHER INTERESTS**

A sale of property by a debtor or trustee pursuant to section 363 is not a sale free and clear of any interest unless the motion expressly requests relief under 11 U.S.C. §363(f), the order expressly grants such relief, and any fee required by the Miscellaneous Fee Schedule is paid.

## **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:

- (a) specify the item of personal property to be redeemed;
- (b) identify all creditors holding liens on the property to be redeemed; and
- (c) 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).

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

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

- (a) Unless otherwise ordered by the Court sua sponte or on a party's timely request, 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.

## **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**

- (a) 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.
- (b) A substitution of counsel may be done by a “Notice of Substitution of Counsel” if the same law firm will continue to represent the party.

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

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## **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. As an alternative to subpart (a), a motion or other request for relief may be set for hearing pursuant to KYEB LBR 9014-1.
- (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:
- (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 Fees;
  - (xi) Motion to Refund Fees;
  - (xii) Motions to Extend Time To Object to Discharge pursuant to FRBP 4004(b);
  - (xiii) Motion to Restrict Public Access pursuant to FRBP 9037;
  - (xiv) Debtor's Motion to Voluntarily Dismiss Chapter 12 or 13 Case pursuant to §§1208 (b) or 1307 (b);
  - (xv) Motion to Extend Time within which to file schedules or lists or to tender orders;
  - (xvi) Motion to Extend or Continue Trial/Deadlines;
  - (xvii) Motion to Pay into Registry;
  - (xviii) Debtors' Motion to Delay Entry of Discharge; and
  - (xix) Motion to Shorten Time, for Expedited or Emergency Hearing.



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

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- (d) Proposed Orders. A motion must include a proposed order tendered as an attachment as specified in the APM.

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

Objecting parties may include a 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) Any objection or response to a matter noticed for hearing pursuant to this rule must be filed not less than 3 days before the scheduled hearing unless otherwise ordered by the Court.
- (c) 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.
- (d) If the Court orders a continuance during a hearing, the party who originally noticed the matter for hearing must renote the hearing.

## **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.

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

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- (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.