



Local Rules

Effective August 1, 2011 and as further Amended December 1, 2011 by Administrative Order 11-03; December 3, 2012 by Administrative Order 12-04; December 1, 2013 by Administrative Order 13-02; and February 14, 2014 by Administrative Order 14-01; and September 15, 2014 by Administrative Order 14-04; and November 19, 2014 by Administrative Order 14-06; and July 1, 2015 by Administrative Order 15-02.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA www.flsb.uscourts.gov

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**LOCAL RULES
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA**

(Effective August 1, 2011 and as further Amended December 1, 2011 by
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LOCAL RULES

UNITED STATES BANKRUPTCY COURT
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Rule 1001-1. Scope of Rules; Sanctions; Waiver; Definitions; Acronyms.

(A) Scope. These local rules are promulgated in accordance with Bankruptcy Rule 9029. They shall apply to all cases and proceedings arising in, under, or related to cases pending under Title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of Florida.

[Comment: These local rules are sequentially numbered to correspond to certain of the Bankruptcy Rules, if applicable, except that a dash and a fifth digit has been added in accordance with the directive of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. If no related national rule number exists, the local rule has been assigned a number for the related topic in accordance with the Judicial Conference of the United States Uniform Numbering System for Local Bankruptcy Rules.]

(B) District Court Rules. The Local Rules of the United States District Court for the Southern District of Florida shall not apply to cases or proceedings in the Bankruptcy Court, except to the extent that Local Rules 87.1 through 87.5 of the District Court govern bankruptcy matters.

[Comment: See Local Rule 87.1 of the United States District Court (giving bankruptcy court authority to enact local rules).]

(C) Incorporation by Reference. Reference in these rules to administrative orders, local forms, court guidelines or clerk's instructions shall mean the referenced administrative order, form, guideline or instruction as revised or amended.

(D) Sanctions. The court, on its own motion or on the motion of any interested party, may impose sanctions for failure to comply with these rules, including; striking of papers filed with the court, dismissal of proceedings, dismissal or conversion of cases, or as may otherwise be appropriate under the circumstances.

(E) Waiver in Appropriate Circumstances. Upon motion of a party in interest or *sua sponte*, the court may suspend the requirements of any of these rules in appropriate circumstances.

☞ 2011 Amendment: Subdivision (E) amended to modify standard under which local rules may be waived.

(F) Definitions. Acronyms.

- (1)** The terms “court”, “judge”, “clerk”, “local rule”, “local form” and “administrative order” shall refer to the United States Bankruptcy Court for the Southern District of Florida and the judges, clerk, local rules, and local forms, and local administrative orders respectively, of this Bankruptcy Court, unless otherwise specifically noted. The term “clerk” means the clerk of court or members of the clerk of court’s staff. Reference to district court shall refer to the United States District Court, Southern District of Florida.
- (2)** “Bankruptcy Rules” shall mean the Federal Rules of Bankruptcy Procedure. Where an Interim Bankruptcy Rule is cited in these rules and that rule is subsequently adopted as a Bankruptcy Rule, the use of “Interim Bankruptcy Rule” shall mean the Bankruptcy Rule as subsequently adopted.
- (3)** “Individual” shall mean natural person, and “non-individual” shall mean corporation, partnership, trust, or other legal entity which is not a natural person.
- (4)** “Parties of record”, when used by the clerk to designate service, shall mean all parties listed on the “creditor mailing matrix” as described in the “Clerk’s Instructions for Preparing, Submitting and Obtaining Service Matrices”, except that registered users listed on “Mailing Information for a Case” matrix will receive service from the clerk via their designated email address, not the U.S. mail address listed on the “creditor mailing matrix”.
- (5)** “Registered user” is an interested party who has been approved to electronically file papers in this court.
- (6)** “CM/ECF” is an acronym for the “Case Management/Electronic Case Files” system used in this court.
- (7)** “Electronic filing” is a filing submitted via the Internet by a registered user of CM/ECF in this court.
- (8)** “Conventional filing” is a filing submitted in paper.
- (9)** “NEF” is an acronym for “Notice of Electronic Filing” which is an electronic notice generated automatically by the CM/ECF system upon the electronic filing of a document in a case or docketing of a “virtual” public docket event. It contains

the names and email addresses of parties who were served electronically. The NEF may also be viewed on the court docket by PACER subscribers.

- (10) "BNC" is an acronym for "Bankruptcy Noticing Center", a centralized noticing service authorized by the Administrative Office of the United States Courts and contracted to an entity who provides service of notices on behalf of the United States bankruptcy courts.
- (11) "NCRS" is an acronym for "National Creditor Registration Service", a non-fee registration service provided by the BNC that allows bankruptcy court notices to be transmitted electronically to parties in a case. NCRS also maintains preferred mailing address lists for creditors pursuant to 11 U.S.C. §342(f).
- (12) "PDF" is an acronym for "portable document format", a special file format created by Adobe Systems Inc.
- (13) "Business day" shall mean any day not a Saturday, Sunday, or a legal holiday. Otherwise, the definitions of words in 11 U.S.C. §101 and §1101 and Bankruptcy Rule 9001, and the rules of construction in 11 U.S.C. §102, govern their use in these rules.

Rule 1002-1. Commencement of Case.

(A) Petition Requirements. At the time of filing, each voluntary petition shall:

- (1) comply with requirements as set forth in the "Clerk's Filing Instructions", including submission of an Official Bankruptcy Form "Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))";
- (2) be accompanied by a corporate ownership statement as required by Bankruptcy Rule 1007(a)(1) if the debtor is a corporation, limited partnership, limited liability company, limited liability partnership, joint venture, general partnership or any other entity that meets the definition of "corporation" under 11 U.S.C. §101(9);
- (3) if the case is being filed after dismissal of the debtor's previous case by any bankruptcy court, be accompanied by a copy of the dismissal order and any other orders which set forth the conditions under which the subsequent case may be filed; and
- (4) if the petition is being filed electronically, be accompanied by the Local Form "Declaration Under Penalty of Perjury to Accompany Petitions, Schedules and Statements Filed Electronically" in accordance with Local Rule 9011-4(C), and the

information contained in the Official Bankruptcy Form "Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))" must be verified in accordance with Local Rule 9011-4(D).

[Comment: See also Bankruptcy Rules 1002, 1007 (schedules), and 9009 (official forms), and Local Rules 1006-1 (installment payments and chapter 7 fee waivers), 1074-1 (corporations), 5080-1 and 5081-1 (filing fees), 5005-1(A)(2) (compliance with Federal Judiciary Privacy Policy), 5005-1(B) (place of filing), 5005-1(C) (deficient petitions) 5005-3, 5005-4, 9004-1, 9004-2 (format), 9009-1 (local forms) and 9011-4 (signatures), 2090-1 (representation by attorney), and 9010-1(B)(1) (corporations, partnerships, trusts, and other business entities must be represented by an attorney).]

(B) Clerk Authorized to Refuse for Filing Certain Voluntary Petitions Filed Conventionally. Dismissal of Electronically Filed Voluntary Petitions.

- (1) The clerk shall refuse for filing any conventionally submitted voluntary petition:**
 - (a)** from a debtor who had a prior case dismissed by an order which prohibited the debtor from filing for a period of time that has not yet expired, or where a court order sets forth conditions for refiling and those conditions have not been met;
 - (b)** from a debtor which is accompanied by an application to pay filing fee in installments if filing fees remain due from any previous cases filed by that debtor unless the application is accompanied by payment of all previously due fees;
 - (c)** that does not contain the debtor(s)' required original signature(s) and address(es); or
 - (d)** from a pro se individual debtor that is not accompanied by documentary proof of the debtor's identity required by the court as set forth in the "Clerk's Filing Instructions".
- (2) Dismissal of Electronically Filed Petitions.** Any electronically filed voluntary petition filed with any of the deficiencies listed in subdivision (1) above shall be subject to dismissal without notice or hearing.

[Comment: See also Local Rules 1006-1(A) (refusal of petitions) and 5005-1(C) (deficient petitions and papers).]

☞ 2011 Amendment: Subdivision (B)(1)(c) is amended to reflect relocation of petition refusal provisions from Local Rule 5005-1(C)(1). Subdivision (B)(1)(d) is a new provision that requires pro se individual debtors to submit proof of identification when filing a petition.

Rule 1003-1. Involuntary Petitions.

(A) Petition Requirements. Each involuntary petition must comply with requirements set forth in the “Clerk’s Filing Instructions”.

(B) Non-Individual Debtors. An involuntary petition for a non-individual debtor shall state the name, title, and mailing address of the person who shall be designated in the order for relief to perform the duties of the debtor.

(C) Joint Debtors. An involuntary petition shall not be filed against joint debtors.

(D) Clerk Authorized to Refuse Unsigned Petitions. The clerk shall refuse for filing an involuntary petition that is not signed by all of the petitioning creditors.

[Comment: See also Bankruptcy Rules 1005, 1007 and 9009, and Local Rules 5080-1 and 5081-1 (filing fees), 5005-1(A)(2) (compliance with federal judiciary privacy policy), 5005-1(C) (deficient petitions), 5005-3 (format), 5005-4 (electronic filing), 9004-1, 9004-2, and 9011-4 (format requirements), 2090-1(B) (special or limited appearance by attorney), and 9010-1(B)(1) (corporations, partnerships, trusts, and other business entities must be represented by an attorney).]

Rule 1006-1. Installment Payments and Chapter 7 Fee Waivers. A voluntary petition in an individual or joint case presented for filing and not accompanied by the required full filing fee will not be accepted by the clerk unless, at the time the petition is filed, application to pay the fee in installments is sought under subdivision (A) of this rule or, if the case is being filed under chapter 7, a waiver of the fee is sought under subdivision (B) of this rule.

(A) Installment Payments.

(1) Application Requirements. A voluntary petition submitted in an individual or joint case seeking to pay the filing fee in installments must be accompanied by the Local Form “Application by Individual Debtor to Pay Filing Fee in Installments”.

(2) Approval of Application by Clerk. The clerk shall review the application and shall be authorized to sign the order in the name of the clerk on behalf of the court where the following conditions are met:

- (a) The application conforms to the local form required under subdivision (A)(1) of this rule;
- (b) The first installment payment accompanies the application;
- (c) The petition accompanying the application contains the required information regarding disclosure of prior bankruptcy cases;
- (d) Copies of any orders required by Local Rule 1002-1(A)(2) accompany the petition;
- (e) The petition has not been filed within a “with prejudice” period or subject to any other court imposed refiling restriction still in effect; and
- (f) The debtor does not have any previous or pending cases where filing fees are owed.

☞ 2011 Amendment: Subdivision (A)(1) is amended to reflect that the local form has been amended to include only the application and not a proposed order. The debtor is not required to submit a proposed order since the court will prepare the order if the application is approved.

(3) Refusal of Petition. Referral of Application to Court.

- (a) **Refusal of Petition.** The clerk shall refuse for filing any conventionally submitted petition accompanied by an application to pay the filing fee in installments where the requirements of subdivision (A)(2) (e) or (f) of this rule have not been met. If the application has been electronically filed and these requirements were not met, the clerk will refer the matter to the judge assigned to the case.
- (b) **Referral of Application to Court.** If the requirements of subdivision (A)(2)(a), (b), (c), or (d) are not complied with at the time of filing of the application, the clerk shall not approve the application pursuant to subdivision (A)(2) of this rule. Instead, the application shall be referred to the court for review.

(4) Dismissal of Case Upon Failure to Pay Installment Payment. Balance of Filing Fee Due on Dismissal. The court shall dismiss without any further notice any case where an installment payment is not timely made in the required manner. The balance of the filing fee shall become due immediately upon the dismissal of a case or upon the failure to timely pay any installments.

[Comment: See also Local Rule 1002-1(B) - Clerk Authorized to Refuse for Filing Certain Voluntary Petitions, Local Rule 1017-2(D) - Failure to Timely Remit Installment Payment and

Local Rule 2002-1(C)(1) - clerk's notice to contain notice of intent to dismiss for failure to pay installment payment.]

(B) Chapter 7 Fee Waiver Applications. Applications to waive the filing fee in chapter 7 cases shall be submitted on the Official Bankruptcy Form "Application for Waiver of the Chapter 7 Filing Fee for Individuals Who Cannot Pay the Filing Fee In Full or in Installments" in accordance with the following requirements:

- (1)** Applications which do not substantially conform to the Official Bankruptcy Form or that are otherwise defective shall be noted as deficient and the debtor shall have 14 days to file an amended application.
- (2)** Unless otherwise ordered by the court, the application will be considered on an ex parte basis.
- (3)** If the fee waiver application is denied and the court directs the debtor to pay the fee in installments, the initial payment shall be due 14 days after entry of the order denying the fee waiver request. Failure to timely remit the payment will result in the case being dismissed without further notice or hearing.
- (4)** Debtors who had previously been granted permission to pay the filing fee in installments, including a debtor whose chapter 13 case is converted to chapter 7, and who later seeks waiver of the filing fee, must file the waiver application prior to the next installment payment date to avoid dismissal of the case for nonpayment.
- (5)** If a debtor is granted a chapter 7 fee waiver and the case is converted to chapter 12 or 13, the debtor shall pay, as applicable, the full chapter 12 or 13 filing fee or file an application to pay the fee in installments within 14 days after entry of the conversion order.
- (6)** The court may vacate an order waiving the filing fee if developments in the case or administration of the case demonstrate that the waiver was or becomes unwarranted. In the event this occurs, the debtor shall pay the full filing fee or, if the order permits, file an application to pay the fee in installments within 14 days after entry of the order.
- (7)** Entry of an order waiving the chapter 7 filing fee shall be deemed an order waiving other fees scheduled by the Judicial Conference under 28 U.S.C. §§1930(b) and (c) unless otherwise ordered by the court.
- (8)** The court may direct the clerk not to accept petitions under the chapter 7 fee waiver provisions if the court determines that the debtor is filing petitions in a manner that would constitute abuse of the bankruptcy system.

Rule 1007-1. Lists, Schedules, Statements and Other Required Documents; Extension of Time to File.

(A) General. Lists, schedules, statements or other required documents shall conform to any additional requirements set forth in the “Clerk’s Filing Instructions”.

(B) Schedules of Property Claimed as Exempt, Current Income, and Current Expenditures, and Payment Advices. The schedules of property claimed as exempt, current income and current expenditures and copies of payment advices required pursuant to 11 U.S.C. §521(a)(1)(B) and Bankruptcy Rule 1007(b)(1), are not required in a non-individual case.

(C) Extension of Time to File. Motions, pursuant to Bankruptcy Rule 1007(c) or 9006(b), to extend the time to file lists, schedules, statements or other documents, must set forth the date of the scheduled meeting of creditors. If no date has yet been set, the motion should so state. Motions which seek to extend the time within seven days before the §341 meeting will be granted only after a hearing and only upon a showing of exceptional circumstances. This rule does not apply to motions to extend the time to file a certificate of credit counseling, which extensions are governed by 11 U.S.C. §109(h), Bankruptcy Rule 1007(b)(3) and Local Rule 1007-1(E).

[Comment: See also Local Rule 5005-1(A)(2) (compliance with federal judiciary privacy policy) and Local Rule 9013-1(C)(2) (no hearing necessary).]

(D) Local Form Declaration Required If Electronically Filed. Lists, schedules, and statements filed electronically without imaged signatures must be accompanied by the Local Form “Declaration Under Penalty of Perjury to Accompany Petitions, Schedules and Statements Filed Electronically”, as required under Local Rule 9011-4(C).

(E) Requirements to Obtain Consumer Credit Counseling Prior to Filing Bankruptcy.

(1) Official Forms Required. Under 11 U.S.C. §§109(h) and 521(b), and Bankruptcy Rule 1007(b)(3), an individual debtor must designate on the Official Bankruptcy Form Voluntary Petition, in the designated box, that Exhibit D has been completed and signed by the debtor (each spouse must complete a separate Exhibit D, if joint petition is filed).

(2) Failure to Comply with Exhibit D Requirements.

(a) Failure to File Credit Counseling Certificate. If the debtor files with the petition Exhibit D with Box 1 checked, fails to file Exhibit D with the petition, or files Exhibit D with no boxes checked, and the debtor does not file a conforming credit counseling certificate with the petition, the petition will be considered nonconforming and the clerk is directed to

serve a notice of deadline to correct deficiency. In such case, if the debtor fails to file a conforming credit counseling certificate by the deadline set in the notice, the case may be dismissed without further notice or hearing. If Exhibit D is filed with Box 2 checked, and a conforming credit counseling certificate is not filed within 14 days from the date the petition is filed, the case may be dismissed without further notice or hearing.

- (b) Failure to Designate Exigent Circumstances or File Motion.** If Exhibit D is filed with Box 3 checked and the required summary of exigent circumstances is not set forth on the form or if Exhibit D is filed with Box 4 checked and is not accompanied by the required motion for determination by the court, the case may be dismissed without further notice or hearing.

☞ 2011 Amendment: Subdivision (E) is amended to clarify the requirements for submitting Exhibit D of the Official Bankruptcy Form Petition and the consequences of failure to comply with these requirements.

(F) Payment Advices Required Under 11 U.S.C. §521(a)(1)(B)(iv) - Payment advices should be accompanied by the Local Form “Declaration Regarding Payment Advices”. If the debtor was unemployed, self-employed or otherwise did not receive or is unable to produce payment advices or evidence of payment from any employer of the debtor reflecting such payment within 60 days before the date of the filing of the petition, the debtor should also submit the Local Form “Declaration Regarding Payment Advices” and indicate on the form the debtor’s status regarding payment advices to avoid automatic dismissal of the case. Before filing, privacy information in payment advices and other documents filed in compliance with this provision, should be redacted in accordance with Local Rule 5005-1(A)(2).

(G) Requests for Copies of Debtor’s Tax Information - Requests for copies of the debtor’s tax information under 11 U.S.C. §521 or 11 U.S.C. §1116(1)(A), shall be made in accordance with the Administrative Office of the United States Courts “Director’s Interim Guidance Regarding Tax Information Under 11 U.S.C. §521” dated September 20, 2005, and any subsequent directives issued. This document is posted on the court website. In any case where the court directs the clerk to provide a party with a copy of a tax return which was ordered to be filed with the clerk, the clerk shall, unless otherwise ordered, provide such copy via U.S. mail. Any party receiving such copy shall comply with the guidelines addressing privacy of tax information.

[Comment: See also Local Rule 1017-2 (C) “Dismissal Under 11 U.S.C. §521(e)(2)(B) for Failure to Provide Tax Return”.]

[Comment: See also Local Rule 5005-1(A)(2) (compliance with federal judiciary privacy policy) and Local Rule 9013-1(C)(2) (no hearing necessary).]

Rule 1007-2. Mailing - List or Matrix.

(A) Service Matrix to Accompany Petition. Petitions shall be accompanied by a creditor service matrix prepared in the format required by the “Clerk’s Instructions for Preparing, Submitting and Obtaining Service Matrices”.

(B) Amendments to Initial Creditor Service Matrix. Amendments to the initial creditor service matrix must comply with Bankruptcy Rule 1009 and Local Rule 1009-1.

Rule 1007-3. Statement of Intention. If a creditor is required to provide a reaffirmation agreement or other information necessary for the debtor to timely perform his or her statement of intention under §521(a)(2), and the creditor refuses to provide the agreement or information, then the debtor may, but is not required to, file a motion to compel the creditor to supply the required agreement or information.

Rule 1009-1. Amendments to Petitions, Lists, Schedules, and Statements.

(A) General.

(1) Amendments to Correct Clerk’s Scrivener’s Error. The clerk shall, without court order, correct any scrivener’s error by the clerk occurring during entry of debtor information into the court’s records and serve notice of the correction on all parties of record.

(2) Debtor(s)’ Signatures Required. Amendments of the summary of assets and liabilities, schedules, statement of income and expenses, lists, statement of financial affairs, or statement of intent shall be signed by each debtor pursuant to Bankruptcy Rule 1008. Each debtor must also, if required, sign the local forms required by subdivision (D)(1) of this rule. Amended petitions, lists, schedules or statements filed electronically must be accompanied by the Local Form “Declaration Under Penalty of Perjury to Accompany Petitions, Schedules and Statements Filed Electronically” if required under Local Rule 9011-4(C).

(B) Amendment to Petition to Correct Debtor's Name. A debtor or debtors seeking to amend a petition to change a debtor's name (including designation of other or different names under the category "all other names" required to be listed on the petition), or to delete the name of a debtor, shall file a motion with the court requesting approval of such amendment. The movant shall serve any order adding, deleting or changing any debtor's name in a petition upon all parties of record and file a certificate of service thereof. A debtor may not file a motion to amend a petition to add a joint debtor; the additional debtor shall file a separate petition, and may file a motion for joint administration and/or a motion for substantive consolidation with a pending case.

☞2011 Amendment: Subdivision (B) is amended to set forth when a motion and certificate of service is required if debtors seek to amend, add or delete existing debtor names listed on a petition and to address procedures for filing separate petitions to add a joint debtor.

(C) Amendments to Social Security Number or Other Individual Taxpayer Identification Number.

- (1) Amendments Prior to Entry of Discharge.** A request for change in a debtor’s social security number or other individual taxpayer identification number presented for filing prior to entry of a “Discharge of Debtor”, and prior to the administrative closing of the case, shall be processed by the clerk if such request is accompanied by an Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))” reflecting the amended status on the form and a certificate of service in accordance with Local Rule 2002-1(F), reflecting service on all parties of record.

- (2) Amendments Subsequent to Entry of Discharge.** A request for a change in a debtor’s social security number or other individual taxpayer identification number presented for filing subsequent to entry of a “Discharge of Debtor” or the administrative closing of the case, shall only be considered by the court upon the filing of a motion, accompanied by an Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))”, reflecting the amended status on the form, and a certificate of service in accordance with Local Rule 2002-1(F), reflecting service on all parties of record. The motion shall indicate whether an amended discharge is requested. If the case has been administratively closed, the request must also be accompanied by a motion to reopen case to correct social security number or other individual taxpayer identification number and must be accompanied by the applicable re-opening fee. Amendments to a debtor’s social security number or other individual taxpayer identification number shall not be made to the official court record, and amended discharges shall not be issued, absent entry of an order of the court directing such changes.

- (3) Requests Must Comply with Privacy Policy.** In accordance with the federal judiciary privacy policy, any papers (other than the Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))” filed with the clerk to reflect the amended social security number (or other individual taxpayer identification number) in conjunction with a request to amend social security number or other individual taxpayer identification number, shall be redacted with respect to the social security number or other individual taxpayer identification number of any debtor.

(D) Amendments to Schedules, Statements and Lists.

- (1) Amendments to Creditors’ Information Must Be Accompanied by Required Forms.** As set forth in the “Clerk’s Instructions for Preparing, Submitting and Obtaining Service Matrices”, the Local Form “Debtor’s Notice of Compliance with Requirements for Amending Creditor Information” and the Official Form “Declaration Concerning Debtor’s Schedules” shall accompany any paper required by Bankruptcy Rule 1007 or 1009, and filed after the initial creditor service matrix. In lieu of filing the Local Form “Debtor’s Notice of Compliance with Requirements for Amending Creditor Information”, a debtor or debtor’s attorney may file the completed, signed, and dated “Bypass Notice” form which is provided by the BNC for use in changing or correcting creditors’ mailing address information deemed to be “undeliverable” by the BNC.

☞ 2011 Amendment: Subdivision (D)(1) is amended to include a provision which permits use by debtors of the BNC “Bypass Notice” to amend creditor address information.

- (2) Service on Affected Parties Required.** If schedules or lists are amended to add or modify a creditor’s name or address, a copy of the notice of the meeting of creditors (or any such amended notice) containing the complete social security number of the debtor shall be served on all affected parties, even if the meeting has already been held.
- (3) Amendment of Claimed Exemptions.** The debtor shall serve notice of all amendments to the schedule of property claimed as exempt, as provided in Local Rule 4003-1.
- (4) Deadline for Amendments in Unconfirmed Chapter 13 Cases.** Amended schedules and statements in a chapter 13 case that are necessary for confirmation must be filed no later than 14 days prior to the scheduled confirmation hearing. Copies of amended schedules and statements must be served as provided by subdivision (D)(2) of this rule.

[Comment: See also Local Rules 5005-1(F)(1) and (F)(3) (two-day submission requirement on responses to motions and emergency filing procedures do not apply).]

Rule 1010-1. Summons in Involuntary Cases; Summons in a Chapter 15 Case Seeking Recognition of a Foreign Nonmain Proceeding.

- (A) Summons In Involuntary Cases.** The clerk will generate and docket the summons in an involuntary case and electronically transmit it to the petitioner(s). The electronic summons is a

valid summons, signed, sealed and issued by the clerk and it must be served in accordance with Bankruptcy Rule 1010, along with the involuntary petition.

(B) Summons In Connection With Petition for Recognition of Foreign Nonmain Proceeding Under Chapter 15. A party seeking issuance of a summons in connection with a petition for recognition of a foreign nonmain proceeding under chapter 15 shall deliver to the clerk the Administrative Office of the U.S. Courts Director’s Form "Summons in a Chapter 15 Case Seeking Recognition of a Foreign Nonmain Proceeding" with the required case and service information filled in. Upon issuance, the summons must be served in accordance with Bankruptcy Rule 1010, along with the petition for recognition of a foreign nonmain proceeding under chapter 15.

☞ 2011 Amendment: This rule is amended to reflect abrogation of the local form summons to debtor in an involuntary case since the clerk will now electronically generate this document. Reference to the chapter 15 summons form has been amended to reflect the correct name of the form which parties must complete prior to delivery to the clerk to issue.

Rule 1013-1. Hearing and Disposition In Involuntary Cases.

(A) Contested Petition. If the debtor files a timely answer contesting the petition, the court will then set the contested petition for trial or, at its discretion, for pretrial conference and trial.

(B) Motion to Convert Involuntary Chapter 7 Case. A motion to convert by the debtor in an involuntary chapter 7 proceeding shall be deemed a consent to entry of an order for relief under the chapter to which the case is being converted.

(C) Debtor’s Failure to File Lists, Schedules, Statements, and Matrix. If the debtor has failed to comply with (1) the requirements of Bankruptcy Rule 1007 and Local Rules 1007-1 and 1007-2, and (2) the order for relief, the court shall issue an order to show cause against the debtor or other person designated by the court. The court shall not set any required deadlines and the §341 notice shall not be issued until a complete service matrix is filed in the format required by the “Clerk’s Instructions for Preparing, Submitting and Obtaining Service Matrices”.

[Comment: See also 11 U.S.C. §§706(a), 1112(a), 1208(a), and 1307(a), Bankruptcy Rule 1019 and Local Rules 1019-1 (converted cases), 1017-2(B) (dismissal of involuntary case for failure to appear at meeting of creditors), and 1074-1 (corporations).]

Rule 1014-1. Transfer of Cases.

(A) Related Cases and Adversary Proceedings. Unless provided for in the order, the transfer of a case shall not include the transfer of any related case unless substantively consolidated, but shall include the transfer of any adversary proceeding in the transferred case,

and the transfer of an adversary proceeding shall not include the transfer of any related case or proceeding.

(B) Notice of Transfer. The attorney for the debtor, or clerk of court if the debtor is pro se, shall provide notice to all parties of record of the transfer.

[Comment: See Local Rules 2002-1(F) and 5005-1(G)(2) (Certificate of service required).]

(C) Cases Transferred to This Court. Cases or proceedings transferred to this court shall be assigned to a division and judge pursuant to Local Rule 1073-1.

Rule 1015-1. Joint Administration; Judicial Assignment; Substantive Consolidation.

(A) Joint Administration; Judicial Assignment. A party seeking joint administration of related cases shall file a motion seeking such relief in all affected cases. If all affected cases have not been assigned to the same judge, the party shall file a separate motion in each case assigned to a judge not presiding over the first-filed case, requesting transfer of each such case to the judge presiding over the first-filed case. In matters where joint administration is not at issue, a party seeking transfer of related cases to a single judge may file a motion seeking such relief in the case or cases to be transferred.

(B) Motion.

(1) Content. Motions for joint administration shall include a statement as to whether joint administration will give rise to any conflict of interest among the estates of the cases to be jointly administered. Motions for intra-district transfer will specify with particularity why a case or cases for which transfer is sought is or are related to a case or cases before the judge to whom transfer is requested, and why the transfer should be to that particular judge rather than the judge presiding over the case for which intra-district transfer is sought.

(2) Consideration of Motion by Court.

(a) Chapter 11 Cases. A motion for joint administration may be considered by the court ex parte if filed in accordance with Local Rule 5005-1(G)(1)(a) and Local Rule 9013-1(C)(14), except that a motion requesting joint administration of a chapter 11 case of an individual with one or more chapter 11 cases of non-individuals shall be considered by the court after hearing on notice pursuant to Local Rule 9073-1. Pending determination of a motion for joint administration of chapter 11 cases in which none of the debtors is an individual, parties in interest shall file documents in the case designated in such motion as the lead case as

though the motion has been granted. If a motion for joint administration of chapter 11 cases in which none of the debtors is an individual is thereafter denied, the clerk shall cause each intervening document filed in the previously presumed lead case to be filed in the other cases, as appropriate, and such documents are deemed to have been filed on the dates originally filed in the previously presumed lead case.

- (b) Cases Other Than Chapter 11.** A motion for joint administration filed in other than a chapter 11 case shall be considered by the court after hearing on notice pursuant to Local Rule 9013-1(D)(4), and in accordance with Local Rule 9073-1.

☞ 2011 Amendment: Subdivision (A) is amended to clarify the procedures for joint administration of cases and related requests for transfer of judicial assignment. Subdivision (B)(2)(a) is amended to provide that requests for joint administration of chapter 11 cases involving an individual debtor shall be considered by the court after a hearing on notice and provides for a procedure for filing documents in the cases pending determination of a motion for joint administration in cases in which all debtors are not individuals.

(C) Local Form Order Required. A proposed order jointly administering a case shall conform to the applicable local form order jointly administering cases.

(D) Manner of Joint Administration. Jointly administered cases shall be administered as follows:

- (1) Designation of Lead Case.** For cases filed at the same time, the first case assigned to a judge shall be designated in the joint administration order as the “lead case”. For cases jointly administered subsequent to the original filing date, the order for joint administration shall designate the “lead case”.
- (2) Caption.** Court papers filed after joint administration shall be captioned as provided in Local Rule 9004-2.
- (3) Docket.** A single case docket shall be maintained after the entry of the order for joint administration, under the case number of the case designated in the joint administration order as the “lead case”.
- (4) Claims.** A separate claims register shall be maintained for each case. Claims shall be filed only in the name and case number of the debtor against which the claim is asserted. A separate claim must be filed in each jointly administered case in which a claim is asserted against the particular debtor.

- (5) **Ballots.** Ballots shall be styled only in the case name and number of the member case for which the plan being voted on was filed.

(E) **Substantive Consolidation.** Court papers filed after substantive consolidation shall be styled as provided in Local Rule 9004-2, but creditors receiving clerk issued customized proof of claim forms should submit claims utilizing those forms. Any claim filed and docketed prior to the consolidation, or received at any time on a clerk-issued customized proof of claim form, shall remain docketed on the register for the case number for which it was submitted.

[Comment: See Local Rules 1073-1(B) (divisional assignment of cases), 9004-1 (style of papers) and 9004-2 (caption of papers).]

Rule 1017-1. Conversion - Request for/Notice of.

(A) **Orders for Conversions Not Requiring a Hearing.** The filing of a motion to convert, either ex parte or on negative notice, must be accompanied by the applicable local form order of conversion in accordance with the court's "Guidelines for Preparing, Submitting and Serving Orders". Where conversion is effected upon the filing of a notice of conversion under §1208(a) or §1307(a), the court shall prepare the order upon conversion.

(B) **Orders for Conversions Requiring a Hearing.** Any party directed to submit a conversion order for conversions requiring a hearing shall submit a proposed order which conforms to the applicable local form order of conversion, modified as necessary to reflect the hearing date and any additional directives of the court, and submitted in accordance with the court's "Guidelines for Preparing, Submitting and Serving Orders".

(C) **Required Fees.**

(1) **Trustee Fee.** An additional fee intended for payment to chapter 7 trustees under the "Bankruptcy Court Miscellaneous Fee Schedule" is due when the motion or notice of conversion to convert to chapter 7 is filed.

(2) **Conversion Fee.** If applicable, a fee shall be charged at the time a motion to convert is filed in the amount of the difference between the current filing fee for the chapter under which the case was originally commenced and the current filing fee for the chapter to which the case is requested to be converted if the converted to case chapter fee is greater.

[Comment: See "Clerk's Summary of Fees".]

Rule 1017-2. Dismissal of a Case.

(A) Failure to File Required Papers.

- (1) After Service of Notice of Deficiency.** The court may dismiss a voluntary case under any chapter without further notice or hearing for failure by the debtor to file required schedules, statements or lists or other documents, and may dismiss a chapter 13 case for failure to file a chapter 13 plan, upon determination that:
- (a)** notice of the deficiency and a warning that the case will be subject to dismissal without further notice has been provided to the debtor and the debtor's attorney prior to the expiration of the deadline for filing; and
 - (b)** the debtor has failed to file the required papers by the deadline and no timely filed request for an extension of time is pending before the court.
- (2) "Automatic Dismissal" Under 11 U.S.C. §521(i).** The "automatic dismissal" provision under 11 U.S.C. §521(i), shall be implemented in this court in an individual chapter 7 or 13 case in accordance with the following requirements:
- (a)** The assigned trustee shall review each such case to determine whether the debtor has complied with all filing requirements set forth in 11 U.S.C. §521(a)(1), to the satisfaction of the trustee.
 - (b)** If the debtor has met these requirements:
 - (i)** Except as provided in subdivision (c) below, the trustee shall file an electronic statement with the court as follows: "The information required by 11 U.S.C. §521(a)(1) as provided by the debtor(s) in this case is complete to the satisfaction of the trustee. No creditor or other party in interest has filed a request for an order of dismissal pursuant to 11 U.S.C. §521(i)(2) and the trustee does not believe that this case is subject to automatic dismissal pursuant to 11 U.S.C. §521(i)". The chapter 7 trustee shall file this statement no later than the deadline established by the court for filing complaints objecting to the discharge and the chapter 13 trustee shall file this statement prior to entry of an order confirming the plan.
 - (ii)** Upon the filing of this statement by the trustee, the court shall enter an "Order Determining Debtor's Compliance With Filing Requirements of §521(a)(1)", to be served on all creditors and parties in interest, stating that the case is not subject to automatic dismissal under 11 U.S.C. §521(i)(1) or (2). If any creditor or party

in interest has any reason to contest the court's finding that the debtor has filed all information required by 11 U.S.C. §521(a)(1), that party shall file an objection to the order not later than 21 days from the date of entry of the order, and serve such objection on the trustee, the U.S. Trustee, the debtor and the debtor's attorney, if any. The objection should specifically identify the information and document(s) required by 11 U.S.C. §521(a)(1), that the debtor has failed to file.

(iii) Each creditor or other party in interest served with the order who does not file an objection within the 21 day deadline set forth above, has waived the right to file a motion to dismiss this bankruptcy case for the debtor's failure to comply with 11 U.S.C. §521(a)(1).

(c) If the trustee has determined that the debtor has not met the filing requirements of 11 U.S.C. §521(a)(1), and the court has not otherwise waived or extended the deadline for filing, the trustee shall file a motion to dismiss the case no later than the deadlines established for filing the trustee statement in subdivision (b)(i) above.

(d) Notwithstanding this rule, the court shall continue to dismiss cases under this court's local rules and procedures earlier than the 46th day if there are any filing deficiencies.

(e) The trustee assigned to a converted case shall comply with these certification requirements by the deadlines established under the chapter to which the case was converted, unless the certification was filed in the prior case.

(B) Failure to Appear at Meeting of Creditors.

(1) **In Chapter 7, 11, and 12 Cases.** The court may dismiss a voluntary case under chapter 7, 11 or 12, without further notice or hearing, for failure of the debtor (or in the case of a non-individual debtor, the debtor's president, managing partner or other knowledgeable officer) to appear at the meeting of creditors, in a chapter 7 case, upon the filing by the trustee of the Local Form "Chapter 7 Trustee's Motion to Dismiss Case for Failure by Debtor to Appear at the §341 Meeting"; or in a chapter 11 or 12 case, upon the filing of a motion by the U.S. Trustee and upon determination that:

(a) the clerk has served notice of the intended action, by warning in the §341 or post-conversion meeting notice served under Local Rule 2002-1(C)(1);

- (b) there is no motion pending, pursuant to Local Rule 2003-1, to reconsider the trustee's or U.S. Trustee's denial of a request for continuance of the meeting; and
 - (c) the case was not commenced as an involuntary case. In an involuntary case, a motion to dismiss for failure of the debtor (or in the case of a non-individual debtor, the debtor's president, managing partner or other knowledgeable officer) to appear at the §341 meeting shall be scheduled for hearing in accordance with Local Rule 9073-1.
- (2) **In Chapter 13 Cases.** The court may dismiss a case under chapter 13, without further notice or hearing, for failure by the debtor to appear at the §341 or post-conversion meeting, if the clerk served notice of the intended dismissal on the debtor in the notice of commencement of case served by the clerk under Local Rule 2002-1(C)(1).
- (C) Dismissal Under 11 U.S.C. §521(e)(2)(B) for Failure to Provide Tax Return.** The court will dismiss cases under section 521(e)(2)(B), only upon motion and after a hearing on notice to the debtor. Any motion to dismiss filed by a creditor must recite that the creditor timely requested a copy of the return under Bankruptcy Rule 4002(b)(4).
- (D) Failure to Timely Remit Installment Payment or Other Filing Fees Due From Debtor.** The court may dismiss a case without further notice or hearing where the debtor has failed to remit a required installment fee payment or other filing fee due from debtor, including filing fees due upon conversion of a case, upon denial of a chapter 7 fee waiver application or upon revocation of an order permitting waiver of the chapter 7 filing fee.
- (E) Fees Outstanding at Time of Dismissal.** The balance of any statutory or court-ordered fees, including filing fees, conversion fees, and U.S. Trustee's fees, due and owing at the time of dismissal, must be immediately paid in full.
- (F) Disposition of Funds by Chapter 12 or 13 Trustee Upon Dismissal of Case.** Upon the dismissal of a case under Chapter 12 or Chapter 13 of the Bankruptcy Code, the trustee shall dispose of funds remaining, after payment to the trustee of approved fees and costs and upon payment of any other court authorized administrative expenses, in the following manner:
- (1) If there is a confirmed plan in the case, the trustee shall pay any funds received prior to the entry of the order dismissing the case to creditors pursuant to the terms of the plan. All funds received after the entry of the order shall be paid or returned to the debtor.
 - (2) If there is neither a confirmed plan nor an order directing otherwise, the trustee shall pay all funds,

- (a) in a chapter 12 case to the debtor; and
- (b) in a chapter 13 case to the debtor except:
 - (i) the chapter 13 trustee shall disburse all pre-confirmation adequate protection payments and lease payments to the secured creditors described in §1326(a)(1)(C), and lessors described in §1326(a)(1)(B), in accordance with the last filed plan. If there are insufficient funds, payment shall be pro rata; and
 - (ii) where the court has entered an order pre-confirmation that all pre-confirmation interim payments made to the chapter 13 trustee are vested and non-refundable if the plan is not confirmed and the case is dismissed, the pre-confirmation payments held by the trustee at the time of a dismissal shall be disbursed pro rata in accordance with the last filed plan to the lessors and secured creditors protected by §1326(a)(1)(B) and (C), and to the other creditors and parties protected by the vesting order.
- (3) Notwithstanding subdivisions (1) and (2), any remaining balance owed by the debtor to the court for filing fees and clerk's fees shall be paid by the trustee to the court prior to making any refund to the debtor.

[Comment: See also 11 U.S.C. §347(a) (unclaimed funds), and Local Rule 2002-1(C)(6) (clerk to serve notice of dismissal).]

(G) Deadline in Reinstated Cases for Filing Motions to Dismiss or for Serving Notices of Hearings Pursuant to Bankruptcy Rule 1017(e). If a case is dismissed prior to the expiration of the deadline for filing a motion to dismiss a case for abuse pursuant to Bankruptcy Rule 1017(e)(1), or for service of notice of a hearing on the court's own motion to dismiss a case for abuse pursuant to Bankruptcy Rule 1017(e)(2), and subsequently reinstated, the deadline shall be modified as follows:

- (1) In a case dismissed before the meeting of creditors is held, the new deadline shall be 60 days after the rescheduled meeting of creditors.
- (2) In a case dismissed after the meeting of creditors is held, the new deadline shall be 60 days from execution of the order reinstating the case.

☞ 2011 Amendment: Subdivision (G)(2) is amended to remove reference to "order vacating the order of dismissal" and replace it with "order reinstating the case".
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Rule 1019-1. Conversion and Reconversion - Procedure Following.

(A) Extension of Time to File Post-Conversion Schedules. Any motion pursuant to Bankruptcy Rules 1019 and 9006(b), to extend the time to file lists, schedules, statements or payment advices must set forth, if known, the date of the scheduled post-conversion meeting of creditors. If no date has been set, the motion should so state. Motions that seek to extend the time within seven days before the post-conversion meeting of creditors will be granted only after notice and hearing completed before the beginning of such seven day period.

(B) Schedule of Postpetition Debts and Service Matrix and Notice Requirements. The schedule of postpetition debts required by Bankruptcy Rule 1019(5) or subdivision (C) of this rule, shall be accompanied by a supplemental service matrix and notice to the affected parties shall be given as required by the “Clerk’s Instructions for Preparing, Submitting and Obtaining Service Matrices” and Bankruptcy Rule 1009. If no unpaid debts have been incurred since the commencement of the case, a certification to this effect shall be filed.

(C) Cases Converted to Chapters 11, 12, or 13. Upon conversion to chapter 11, 12, or 13, and except as otherwise ordered, all property shall be turned over to the debtor in a chapter 13 case or to the trustee or debtor in possession in a chapter 11 or 12 case. Upon conversion to chapter 11, 12, or 13, new time periods shall commence under Bankruptcy Rules 3002, 4004 and 4007. The final report and schedule of unpaid debts required by Bankruptcy Rule 1019(5), shall be filed by the trustee in a case converted from chapter 7, and by the trustee or debtor in possession in a case converted from chapter 11 or 12. In a case converted from chapter 13, the trustee shall file the final report and the debtor shall file the schedule of unpaid debts. The deadline for fee applications arising from the superseded case is provided in Local Rule 2016-1(C)(2) and (4)(c).

☞ 2011 Amendment: Subdivision (C) is amended to incorporate provisions adopted by this court’s Administrative Order 10-5 which were necessitated by December 1, 2010 amendments to Bankruptcy Rule 1019.

(D) Disposition of Funds by Chapter 12 or 13 Trustee Upon Conversion of Case. Upon the conversion of a case under Chapter 12 or Chapter 13 of the Bankruptcy Code, the trustee shall dispose of funds remaining after payment to the trustee of approved fees in costs, and upon payment of any other court authorized administrative expenses, in the same manner as provided for disposition of funds upon entry of the order dismissing case under Local Rule 1017-2(F).

(E) Filing Claims in Cases Converted From Chapter 13 to Chapter 7. Chapter 13 cases converted to chapter 7, shall be designated as no asset cases. Upon the filing of a “Notice of Assets” by the chapter 7 trustee in a case converted from chapter 13, a claims bar deadline shall be established pursuant to Bankruptcy Rule 3002(c)(5).

(F) Deadline for Filing Postpetition Claims.

- (1) In Converted Cases.** Pursuant to Bankruptcy Rule 1019(6), the deadline for filing by a non-government unit of a request for payment of an administrative expense or a claim filed pursuant to §348(d) of the Bankruptcy Code, shall be 90 days from the date of the post-conversion meeting. This deadline shall be subject to modification, as applicable, by the provisions of Local Rules 1019-1(E) or (F)(2), 3002-1, and 3003-1.
- (2) In Reconverted Cases.** In asset cases where a schedule of unpaid debts has been filed pursuant to Bankruptcy Rule 1019(5), and where a new claims bar deadline will not be set for all creditors since the original claims bar date had expired prior to conversion, the party filing the schedule of postpetition debts required by Bankruptcy Rule 1019(5) or subdivision (B) of this rule, shall file a timely motion requesting that the court set a deadline for postpetition creditors to file claims in accordance with Bankruptcy Rule 1019(6) and this subdivision. Service of the order setting deadline shall be provided by the party filing the motion.

(G) Extension of Deadline to Object to Exemptions in Converted Cases. The deadline for objection to exemptions in converted cases shall be extended pursuant to Local Rule 4003-1(B).

(H) Filing of Official Bankruptcy Form 22 Upon Conversion of Case - In cases of individual debtors converted to chapters 11 or 13, the debtor shall file Official Bankruptcy Form 22 (applicable for the chapter converted to) within 14 days of entry of the conversion order. In cases converted to chapter 7 from chapters 11, 12 or 13, unless otherwise ordered by the court, the debtor shall file the Official Bankruptcy Form 22 “Statement of Current Monthly Income and Means Test Calculation for Use in Chapter 7” within 14 days of conversion.

[Comment: The court has noted the split of authority regarding applicability of the means test upon conversion of a case. Reference in this local rule to the filing of Official Bankruptcy Form 22 upon conversion does not constitute any conclusion by this court on this substantive issue.]

[Comment: See Bankruptcy Rules 1017(f) (proceeding to convert case) and 4003(b) (clerk’s deadline for objecting to exemptions), Local Rule 2002-1(C)(1) (notifications of deadlines required in notices), Local Rule 3002-1(A) (claims deadline in cases converted from chapter 13 to chapter 7) and Local Rule 9013-1(D)(3)(h) (conversion of chapter 7 case by debtor on negative notice).]

Rule 1071-1. Divisions - Bankruptcy Court. The court maintains permanent offices located in Miami, Ft. Lauderdale and West Palm Beach. At the time of filing or transfer, cases are assigned to one of three divisions: the Miami Division, consisting of Miami-Dade and Monroe Counties; the Fort Lauderdale Division, consisting of Broward County; and the West Palm Beach Division, consisting of Palm Beach, Highlands, Indian River, Martin, Okeechobee, and St. Lucie Counties.

Rule 1073-1. Divisional and Judicial Assignment of Cases.

(A) Divisional Assignment. All cases shall be reviewed by the clerk upon filing to verify correct divisional assignment and, where appropriate and absent other order of the court, the clerk shall issue a notice of divisional transfer to enable the case to be re-assigned:

- (1)** if the debtor is an individual, to the division where the "Street Address of Debtor" is located according to the petition; or
- (2)** if the debtor is a non-individual, to the division that the petition indicates is the "Location of Principal Assets of Business Debtor."

If a party in interest believes that the case should be assigned to a different division within this district, such party shall file a motion requesting transfer to the desired division and state the reasons therefor.

[Comment: See Local Rules 1015-1(B)(2) (addressing judicial assignment of cases in certain circumstances) and 1071-1 (divisions of court).]

☞2011 Amendment: Subdivision (A) is amended to reflect abrogation of Local Form "Declaration of Divisional Venue" and to provide that parties seeking assignment of a case to a different division must file a motion.

(B) Judicial Assignment.

- (1)** All cases shall be assigned on a blind rotation basis, within each chapter category, to a judge assigned to hear cases in the division to which the case has been assigned pursuant to subdivision (A).
- (2)** A matter from which a judge has been recused shall be reassigned by the clerk to another judge in the same division and notice of the reassignment shall be served by the clerk.
- (3)** The judge to whom any case or proceeding is assigned may, at any time, reassign the case or proceeding to any other consenting judge in its entirety or for any limited purpose.
- (4)** Assignment to a specific judge without regard to divisional classification shall be considered by the court on motion by a party in the following cases upon the filing of a motion:
 - (a)** all husband and wife cases, whether filed jointly or severally; and

- (b) cases that may be jointly administered pursuant to Bankruptcy Rule 1015.
- (5) Notice of reassignment of a case to another judge shall be provided to all parties of record by the clerk of court.

[Comment: See also Local Rule 7003-1(C) (judicial assignment of adversary proceedings).]

Rule 1074-1. Corporations. A voluntary petition or consent to an involuntary petition filed by a corporation shall be accompanied by a copy of the duly attested corporate resolution (or other appropriate authorization) authorizing the filing or the consent, if involuntary petition.

[Comment: See also Local Rule 9010-1(B)(1) (corporations must be represented by an attorney).]

Rule 1075-1. Clerk’s Notice to Consumer Debtors Required Under 11 U.S.C. §342(b). The clerk shall be deemed to be in compliance with 11 U.S.C. §342(b), by posting in each public intake area of the clerk’s office and by making available to all requesting parties, copies of the Administrative Office of the United States Courts Director’s Procedural Form “Notice to Consumer Debtors Under §342(b) of the Bankruptcy Code”.

Rule 2002-1. Notices.

(A) By Whom Served. Unless otherwise provided by these rules or order of the court:

- (1) The proponent of any action in any case or proceeding shall serve notice of the proposed action on all parties to whom notice of the proposed action is mandated by the Bankruptcy Rules or by these rules and on all directly affected parties. The proponent shall serve notice of any hearing scheduled on the proposed action on the same parties in the manner provided by Local Rule 9073-1 or, if applicable, subdivision (H) of this rule. The debtor shall ensure that the mailing matrix required by Local Rule 1007-2, includes those parties required to be served pursuant to Bankruptcy Rule 2002(j).
- (2) If the proponent of any action is the U.S. Trustee, or a trustee in a case designated in the §341 or post-conversion meeting notice as a no-asset case, and the rules require service upon all parties of record, the proponent shall prepare the notice and the clerk shall provide the required service.

[Comment: See also Local Rules 2002-1(F) (certificate of service required), 9073-1 (notices of hearing), 9013-1(C) (motions for which no hearing is necessary), and 9076-1 (electronic service).]

(B) Notices Required to be Served by Clerk or Other Person. Unless otherwise directed by the court, wherever the Bankruptcy Rules or local rules require that the clerk or some other

person as the court may direct shall provide notice pursuant to that rule, the clerk is authorized to designate a trustee, debtor in possession, or other party to provide any notice required to interested parties where the interests of justice and efficiency are served. The clerk is further authorized to review the form of all such notices to ensure that the notice complies with the requirements of the court and appropriate rules.

(C) Form, Content, and Manner of Service of Particular Notices.

- (1) Clerk’s Notices of Bankruptcy Case, §341 Meeting or Post-Conversion Meeting, Chapter 13 Confirmation Hearing, Deadlines, and Intended Actions.** The clerk shall prepare and serve the Official Bankruptcy Form 9 Notice of Bankruptcy Case (as modified locally by this court), (and if applicable, the local initial notice of chapter 13 case and filing requirements of debtor) in each new and converted case.

[Comment: The clerk’s notice of bankruptcy case which is mailed to all parties of record pursuant to Local Rule 2002-1(C)(1) shall, on the service copy, contain the complete social security number or individual taxpayer identification number of a debtor, however, the original retained in the court records shall be a redacted copy, containing only the last four digits of the number. Any party required to serve a copy of this notice on additional parties pursuant to Local Rule 1009-1(D)(2) shall serve a copy containing the complete social security number or other individual taxpayer identification number.]

- (2) Notice of Sale.** The trustee or debtor in possession shall prepare and serve a notice of use, sale or lease of any property as provided by Local Rule 6004-1.
- (3) Notice of Continued or Rescheduled §341 Meeting, Post-Conversion Meeting or Chapter 13 Confirmation Hearing.** The party requesting the rescheduling shall provide notice of any rescheduled §341 meeting, post-conversion meeting, or chapter 13 confirmation hearing, but no written notice shall be necessary for a §341 meeting, post-conversion meeting, or chapter 13 confirmation hearing continued after it begins if the continued date is announced at the meeting or hearing.

[Comment: See also Local Rule 2002-1(C)(8) (notice of continued chapter 11 confirmation hearings).]

- (4) Notices Related to Discharge.** In a chapter 7, 12 or 13 case, the clerk, or the clerk’s designee under subdivision (B), shall provide notice of entry of an order of discharge or an order denying, waiving or revoking discharge by serving the order on all creditors and other parties. In a chapter 11 case, notice of entry of the discharge, if applicable, shall be provided for non-individual cases in the order confirming plan and for individual cases, in the final decree. In an individual chapter 7, 12, or 13 case closed without entry of discharge for failure

to meet the requirements of Bankruptcy Rule 1007(b)(7) or Local Rule 4004-3(A)(3) or (4), the clerk shall serve notice that the case was closed without entry of a discharge.

[Comment: The discharge, order denying discharge or notice closing case without discharge which is mailed to all parties of record pursuant to Local Rule 2002-1(C)(4) shall, on the service copy, contain the redacted social security or other individual taxpayer identification number of a debtor which will consist of the last four digits of the number.]

- (5) **Chapter 13 Plan; Amended Plan.** The clerk, or the trustee if the clerk so designates, shall serve the Local Form “Chapter 13 Plan” filed pursuant to Local Rule 3015-1(B). The attorney for the debtor or clerk, if the debtor is pro se, shall serve any subsequently filed amended plan or modified plan and any notice of hearing thereon on all affected parties.

[Comment: See Bankruptcy Rule 3015 and Local Rules 3015-1(B) and 3015-2 (form, notice and deadline requirements for chapter 13 plans and amended plans).]

- (6) **Notice of Entry of Order Dismissing Case or Order Reinstating Chapter 13 Case.** The clerk, or the clerk’s designee under subdivision (B), shall serve the order of dismissal or order reinstating the case entered in any case on all parties of record.

☞2011 Amendment: Subdivision (C)(6) is amended to remove references to orders vacating dismissal and replace them with references to orders reinstating the case.

- (7) **Notice of Claims Deadline in Chapter 7 Cases Reopened to Administer Additional Assets or Former No Asset Chapter 7 Cases.** The clerk, or the clerk’s designee under subdivision (B), shall serve any order or notice setting a deadline pursuant to Local Rule 3002-1 for filing claims in a chapter 7 case reopened to administer additional assets or a chapter 7 no asset case where the chapter 7 trustee has filed a “Notice of Assets”.

- (8) **Notice of Chapter 11 Disclosure Statement and Confirmation Hearings and Continued Hearings.** The proponent of the chapter 11 plan and disclosure statement shall provide the notice of the order required pursuant to Bankruptcy Rules 2002(b)(1), 2002(b)(2), 2002(d)(5), 2002(d)(6), 2002(d)(7) and 3017, by serving the court orders described in Local Rules 3016-2 or 3017-2. The party seeking the continuance of any chapter 11 disclosure statement hearing or confirmation hearing shall provide notice of the continued hearing, but no notice shall be necessary for a disclosure statement hearing or confirmation hearing continued after it begins if the continued date is announced at the noticed hearing.

[Comment: See also Local Rules 3017-1 and 3017-2 (service of disclosure statement, plan, and ballot).]

- (9) Notice of Fee Applications in Chapter 11 Case.** The proponent of a chapter 11 plan shall serve a list of fee applicants in the form prescribed by Bankruptcy Rule 2002(c)(2), in accordance with Bankruptcy Rule 2002(a)(6) or, if applicable, Local Rule 2002-1(H), at least 14 days before the date of the confirmation hearing or within such other time set by the court.

[Comment: See also Bankruptcy Rules 2002(a)(6) (service on trustee and all creditors required) and 2002(k) (service on U.S. Trustee required) and Local Rule 2016-1(C)(1) (deadline for filing fee applications).]

- (10) Notice of Trustee’s Final Report and Applications for Compensation and Setting Deadline for Objections.** In chapter 7 cases in which the amount of net proceeds realized exceeds the amount set forth in Bankruptcy Rule 2002(f)(8), or the amount of any application for compensation exceeds the amount set forth in Bankruptcy Rule 2002(a)(6), the chapter 7 trustee shall provide notice of the trustee’s final report of estate, the court’s intention to approve the fee applications, and the 21 day deadline for objecting to the final report or the fee applications by serving the “Notice of Trustee’s Final Report and Applications for Compensation (NFR),” accompanied by the Local Form “Trustee’s Summary of Requested Fees and Expenses”.

[Comment: See also Bankruptcy Rules 2002(a)(6) and (f)(8) (notice of fee applications and notice of final report) and Local Rules 2016-1(C)(2) (deadline for fee applications) and 3009-1 (trustee’s final report and proposed dividend).]

- (11) Service of Order Confirming Plan.** In a chapter 11 or 12 case, the proponent of the plan shall serve the order confirming plan. In a chapter 13 case, the clerk, or some other person as the court may direct, shall serve the appropriate local form order confirming plan. Orders confirming plans shall be served on all parties of record.

[Comment: See Bankruptcy Rule 3020(c) (notice of entry of confirmation order) and Local Rule 5005-1(G)(2) (service of orders generally).]

- (12) Service of Chapter 13 Local Form “Debtor’s Certificate of Compliance, Motion for Issuance of Discharge and Notice of Deadline to Object”.** The attorney for the debtor (or clerk of court, if the debtor is pro se) shall serve a copy of the Local Form “Debtor’s Certificate of Compliance, Motion for Issuance of Discharge and Notice of Deadline to Object” or, if applicable, the Local Form “Debtor’s Certificate of Compliance, Motion for Issuance of Discharge Before Completion

of Plan Payments, and Notice of Deadline to Object,” on all parties of record as required under Local Rule 4004-3(A)(3).

☞ 2011 Amendment: Local Rule 2002-1 includes Interim Local Rule 2001-1(C)(12), adopted by Administrative Order 11-03, effective December 1, 2011.

- (13) Service in Chapter 11 or 12 Cases of Local Form “Notice of Deadline to Object to Debtor’s Statement Re: 11 U.S.C. §522(q)(1) Applicability, Payment of Domestic Support Obligations, and [For Chapter 11 Cases Only] Applicability of Financial Management Course and Statement Regarding Eligibility to Receive a Discharge”.** In cases involving an individual debtor, the attorney for the debtor (or clerk of court, if the debtor is pro se) shall serve a copy of the Local Form “Notice of Deadline to Object to Debtor’s Statement Re: 11 U.S.C. §522(q)(1) Applicability, Payment of Domestic Support Obligations, and [For Chapter 11 Cases Only] Applicability of Financial Management Course and Statement Regarding Eligibility to Receive a Discharge” on all parties of record as required under Local Rule 4004-3(A)(4).
- (14) Clerk’s Notice Under 11 U.S.C. §362(l)(4)(B) Advising Debtor and Lessor That Automatic Stay is Not in Effect Under 11 U.S.C. §362(b)(22).** The clerk shall provide the notice required under 11 U.S.C. §362(l)(4)(B), that the stay is not in effect, immediately upon determination that the debtor has not filed either the certification required under 11 U.S.C. §362(l)(l), or the certification required under 11 U.S.C. §362(l)(2). The notice shall also advise parties that if any funds were deposited under §362(l), the court shall order the clerk to disburse the funds only upon the filing of a motion served on all affected parties.
- (D) Service Matrices Maintained Under CM/ECF.** The types of service lists available in CM/ECF are described in the “Clerk’s Instructions for Preparing, Submitting and Obtaining Service Matrices”. Verification that a particular party appears accurately on any service matrix, appearance list or claims register is the responsibility of the party providing notice and the party listed. Omissions of parties on any service list maintained under CM/ECF due to failure by the debtor or other responsible party to provide the clerk with supplemental matrices, or where applicable, notices of change of address, shall be the responsibility of that party to correct. Determination as to the appropriate parties to serve shall be the responsibility of the party providing service.
- (E) Multi-paged Notices.** Multiple page one-sided papers may be condensed to two-sided papers for noticing purposes, but the first page of a paper may not be printed on the reverse side of a separate paper, except by the clerk.
- (F) “Certificate of Service” Substantially Conforming to Local Form Required.** A party who provides notice of any requested relief, proposed action or other service pursuant to the

Bankruptcy Rules, these rules, or by order of the court, shall file with the court, within two business days after service, a certificate of service substantially conforming to the Local Form "Certificate of Service", that shall list the names and addresses and date and manner of service of all parties required to be served. The "Notice of Electronic Filing" (NEF) is not a substitute for the filing of a separate certificate of service but may be incorporated by reference in the certificate of service for the purpose of identifying those parties who were served electronically, even if, by such incorporation, the result is inclusion in the certificate of service of some case participants who received electronic service but were not required to be served. The certificate of service must reflect that non-registered users or registered users who have yet to appear electronically in a specific case were served by conventional paper or other manner of service required under the federal rules and this court's local rules. Papers previously filed with the court that are the subject of the certificate of service shall be referenced as provided under Local Rule 9004-1(D) and not attached to the certificate of service filed with the court. A certificate of service conforming with this local rule may be incorporated into a motion, application or other paper filed with the court.

[Comment: See also Bankruptcy Rule 2002 and Local Rules 5005-1(G) (service of orders), and 9013-1(B) (service of motions).]

☞ 2011 Amendment: Subdivision (F) is amended: 1) to clarify that the certificate of service may incorporate an NEF to list parties required to be served, even if the NEF also lists parties not required to be served; 2) to provide that papers already filed with the court that are the subject of the certificate of service must be referenced and not attached; and 3) to provide that a certificate of service may be incorporated into the paper being filed with the court.

(G) Changes of Address. Parties seeking to change their own address in cases and proceedings in this court shall comply with the following:

- (1) Registered users.** Registered users seeking to change a U.S. Mail address must file a notice of change of address in each case or proceeding in which the change is to be effected. In addition, an email notifying the clerk of U.S. Mail or email address changes must be sent to CMECF_Support@flsb.uscourts.gov.

[Comment: See also Local Rule 1009-1(D), amendments by debtors to creditors mailing address.]

- (2) Non Registered Users.** A written and signed notice of change of address must be filed in every case or proceeding in which the change is to be effected.
- (3) Parties Registered For Service with BNC.** In addition to complying with sections (1) and (2) above, parties who registered with the BNC to receive notices must also notify the BNC directly of any changes in service information.

☞2011 Amendment: Subdivision (G) is amended to set forth by type of participant the procedures for changing a participant’s own address.

(H) Designation of “Master Service List” in Chapter 11 Cases.

- (1)** In a chapter 11 case having more than 75 parties of record, a party responsible for service may, at the server’s option and in lieu of service on all parties of record, or must, if the court or these rules direct, serve the following parties:
- (a)** The U.S. Trustee;
 - (b)** The debtor;
 - (c)** The debtor’s attorney;
 - (d)** Any indenture trustees;
 - (e)** The members of and attorneys to any official committee established pursuant to 11 U.S.C. §1102, and, before such appointment, the creditors shown on the list required by Bankruptcy Rule 1007(d);
 - (f)** Creditors holding claims known to be secured by property in which the estate has an interest;
 - (g)** The United States and its agencies as required by Bankruptcy Rule 2002(j);
 - (h)** Those parties and attorneys who have formally requested notice by filing with the court and serving upon debtor’s attorney a notice of appearance or request for service of notices and papers in the case;
 - (i)** Any examiner or trustee (and their attorneys) appointed in the case; and
 - (j)** Any parties and entities (including local governmental units) previously known to the debtor to have a particularized interest in the subject of the notice(s) required to be served.

A certificate of service must be filed pursuant to subdivision (F) of this Rule.

- (2)** The names and addresses for the parties listed in subdivision (H)(1), shall constitute the “Master Service List” in each case. This list shall be maintained by the debtor’s attorney, or if applicable, by the chapter 11 trustee’s attorney, who shall update the list no less than once each month, by adding or modifying the names and addresses of those parties listed in subdivision (H)(1) during the

previous month. An updated “Master Service List” shall be filed with the clerk and a copy served upon all parties listed. In addition, if a party added to, or modified on, the “Master Service List” is a creditor, the debtor’s attorney or, if applicable, the chapter 11 trustee, shall file amended schedules in accordance with Bankruptcy Rule 1009 and Local Rule 1009-1. If the added or modified party is not a creditor, the debtor’s attorney, or if applicable, the chapter 11 trustee, shall advise the party in writing that the party must file directly with the court, as applicable, a claim, notice of appearance or notice of change of address, in order to be added to, or correctly reflected in, the service databases maintained by the clerk and to receive any notices other than those pursuant to this Rule. Notice in the case will at all times be deemed proper and adequate if papers, and the notices related to such papers, are timely served upon any party whose interests are directly affected by a specific paper, and upon those parties on the “Master Service List”. Notwithstanding the provisions of this rule, the service databases maintained by the clerk, as set forth in Local Rule 2002-1(E), shall not be updated by the clerk upon the filing of a “Master Service List”. Additions to, or modifications of, the clerk’s service databases shall only occur upon the filing with the clerk of, as applicable, amended schedules, claims, notices of appearance or changes of address pursuant to, and in accordance with, the provisions of the Bankruptcy Rules and the local rules, including Local Rules 1007-2, 1009-1, 1019-1, 2002-1, 3002-1 and 3003-1.

- (3)** Except as otherwise provided by these rules or the court, subdivision (H)(1) shall not apply to notices required to be served on the debtor, the trustee, equity security holders, and all creditors and indenture trustees pursuant to Bankruptcy Rule 2002, including, without limitation, the notice of
- (a)** commencement and the meeting of creditors under 11 U.S.C. §§341 or 1104(b);
 - (b)** a proposed use, sale or lease of all or substantially all of the property of the estate;
 - (c)** the time fixed for filing objections and the hearing to consider approval of a disclosure statement pursuant to Bankruptcy Rule 3017 and Local Rules 3017-1 or 3017-2;
 - (d)** the time fixed for filing objections and the hearing to consider confirmation of a plan pursuant to Bankruptcy Rule 3020 and Local Rules 3017-1 or 3017-2 and 3020-1;
 - (e)** the hearing on the dismissal or conversion of the case to another chapter; and

- (f) entry of an order confirming a plan.
- (4) Upon timely motion of any party of record, the court may consider, for cause shown, application of this rule to a chapter 11 case with fewer than 75 parties.

[Comment: registered users are deemed served if they have filed an electronic appearance in the case and separate mail notice is not required under this rule. See Local Rule 9076-1.]

(I) Requests for Service by Creditors Under 11 U.S.C. §342(f) - A creditor filing a notice pursuant to 11 U.S.C. §342(f), shall file such notice directly with the National Creditor Registration Service (NCRS) established by the Administrative Office of the United States Courts for this purpose. The clerk shall forward any such requests filed in this court to the NCRS for processing. A link to the NCRS website and the toll free number shall be maintained on the court website.

Rule 2003-1. Meeting of Creditors. Requests to reschedule the §341 or post-conversion meeting of creditors must be directed to the trustee, with a copy to the U.S. Trustee, or, in chapter 11 cases, to the U.S. Trustee. Only if the request is denied may the debtor file with the court a motion to reschedule. If the request is granted, notice of the rescheduled §341 meeting shall be provided pursuant to Local Rule 2002-1(C)(3).

Rule 2004-1. Examinations of Debtor and Others.

(A) Manner of Setting Examination. No order will be necessary to authorize an examination pursuant to Bankruptcy Rule 2004, or to require production of documents at the examination. Examinations may be scheduled upon notice served on the trustee, the debtor, the debtor's attorney and the party to be examined, using the Local Form "Notice of Rule 2004 Examination", and, if applicable, the subpoena required by subdivision (D) of this Rule.

(B) Reasonable Notice. The attendance of the examinee and the production of documents may not be required less than 14 days after actual delivery of the notice, except by agreement of the parties or order of the court. However, an examination may be scheduled on shorter notice if the notice provides that the party to be examined need not file any objection to the short notice but must notify the examining party promptly of the inadequate notice and must offer a reasonable opportunity to be examined on another date. To the extent that a request for production of documents under this rule may be construed as a request under Bankruptcy Rule 7034, the time to respond is shortened to 14 days.

(C) Motion for Protective Order. An interested party may file, prior to the date of the proposed examination, a motion for protective order stating the reasons for prohibiting, limiting or rescheduling the examination, and the examination shall be stayed until the court rules on the motion.

(D) Subpoena. No subpoena shall be necessary to compel attendance of, or production of documents from, the debtor at an examination of the debtor, but a Local Form “Subpoena for Rule 2004 Examination” shall be necessary to compel the attendance of, or production of documents by, a witness other than the debtor.

(E) Videotaped Examinations. Examinations may be videotaped. The notice or subpoena must indicate that the examination is to be videotaped and whether it will also be recorded stenographically.

[Comment: See also Bankruptcy Rules 7026-7037 and 9014 and Local Rule 7026-1 (discovery in adversary proceedings and contested matters.)]

Rule 2007-1. Committee Access to Information.

(A) During the 21 day period immediately following the date of formation of a committee under 11 U.S.C. §1102(a), the committee shall not be required to provide access to information under §1102(b)(3)(A), to the extent such information has been reasonably designated by the party providing such information as non-public, proprietary, privileged, work product or otherwise confidential. At any time during or after this 21 day “safe harbor” the committee may move the court for entry of an order clarifying the type and extent of access to information the committee shall be required to provide under §1102(b)(3)(A). Provided the committee has filed a motion requesting such relief prior to the expiration of the 21 days safe harbor, the committee shall not be required to provide access to information under §1102(b)(3)(A), to the extent such information has been reasonably designated by the party providing such information as non-public proprietary, privileged, work product or otherwise confidential until such times as the court enters an order on such motion.

(B) Upon motion by the committee, and upon notice and a hearing, the court may determine the appropriate media for solicitation and receipt of comments from creditors including, without limitation, a designated e-mail address, phone number, or website to which creditors and parties-in-interest may direct comments to the committee.

(C) Nothing in this local rule is intended to limit, expand or otherwise affect the right of any creditor of the kind described in §1102(b)(3)(A), to seek relief under §1102(b)(3)(C), at any time.

Rule 2014-1. Employment of Professionals.

(A) Attorneys. Applications seeking approval to employ an attorney for a debtor in possession or trustee will be considered only upon submission of the Local Form “Debtor in Possession’s Application for Employment of Attorney” or “Trustee’s Application for Employment of Attorney” accompanied by the Local Forms “Affidavit of Proposed Attorney for Debtor in Possession/Trustee” and “Order Approving Employment of [Debtor in Possession’s/Trustee’s] Attorney”.

(B) Auctioneers. Applications seeking approval to employ an auctioneer will be considered only upon submission of the Local Form “Application for Approval of Employment of Auctioneer” in accordance with Local Rule 6005-1.

[Comment: See also Bankruptcy Rule 2014(a) (all professionals’ applications shall be accompanied by a verified statement of disinterestedness) and Bankruptcy Rule 6003(a) (interim and final relief following commencement of case - applications for employment) and Local Rules 2016-1 (compensation of professionals), 6005-1 (auctioneers), and 2090-1 and 9010-1 (attorneys).]

Rule 2015-1. Reports. The trustee or debtor in possession shall file financial reports of the estate according to the format and time schedule provided by the U.S. Trustee, and shall serve a copy on the U.S. Trustee. The reports shall contain a statement of all receipts and disbursements, and payments (including wage withholding, unemployment and social security taxes) to employees, and such other information as is required by the U.S. Trustee.

[Comment: See also 11 U.S.C. §704(8), §1107(a), and §1203, Bankruptcy Rule 2015 and Local Rule 2081-1 (chapter 11 debtor’s payroll and sales tax report).]

Rule 2016-1. Compensation for Services Rendered and Reimbursement of Expenses.

(A) General. Requests for compensation for professional services or reimbursement of expenses from the estate are governed by Bankruptcy Rule 2016 and this rule, except that applications for compensation by auctioneers are governed by Local Rule 6005-1. Subject to later review by the court and the U.S. Trustee, chapter 7 trustees are authorized to pay, without prior approval of the court, those expenses as provided in, and pursuant to, the court’s “Guidelines for Reimbursement to Chapter 7 Trustees for Costs Without Prior Court Order”. Disclosure of compensation by the attorney for debtor shall conform to the Official Bankruptcy Form “Disclosure of Compensation of Attorney for Debtor”.

(B) Requirements for Compensation.

(1) Applications for Compensation for Professional Services or Reimbursement of Expenses other than by Attorneys for Chapter 13 Debtors. Applications for compensation of attorneys (other than by attorneys for chapter 13 debtors), accountants, and other professionals submitted pursuant to Bankruptcy Rule 2016 shall conform substantially to the court’s “Guidelines for Fee Applications for Professionals in the Southern District of Florida” and the local forms described in the guidelines; provided, however, that applications for cumulative compensation that do not exceed \$2,500 need not include a breakdown by categories of work performed. Applications for compensation by creditors’ attorneys, other than under 11 U.S.C. §503(b)(2), (3) and (4), are not governed by this subdivision but may be incorporated into the creditor’s claim, request for

payment of administrative expense, or motion to determine value of secured claim.

(2) Compensation for Professional Services or Reimbursement of Expenses By Attorney for Chapter 13 Debtor. Sanctions.

(a) General. Compensation for professional services or reimbursement of expenses by attorneys for chapter 13 debtors shall comply with the court's "Guidelines for Compensation for Professional Services or Reimbursement of Expenses by Attorneys for Chapter 13 Debtors Pursuant to Local Rule 2016-1(B)(2)(a)" ("Chapter 13 Fee Guidelines") and the local forms described in the "Chapter 13 Fee Guidelines". Chapter 13 debtors and their attorneys must execute the Local Form "Rights and Responsibilities Agreement Between Chapter 13 Debtor(s) and Chapter 13 Debtor(s)' Attorney for Cases Filed in the United States Bankruptcy Court, Southern District of Florida" prior to filing a chapter 13 case in this court. The form shall be retained by the parties and not filed with the court. A copy of the agreement must be made available to the chapter 13 trustee at the meeting of creditors.

(b) Sanctions. The failure of an attorney to timely file the plan or schedules, to attend the meeting of creditors, to promptly and timely file amendments, or to appear at confirmation hearings or at any other scheduled meetings or hearings shall result in the reduction of the attorney's fee, for each such occurrence, in such amount as the court finds to be appropriate.

(3) Interim Compensation in Chapter 11 Cases.

(a) General. Applications for interim compensation shall comply with the "Guidelines for Fee Applications for Professionals in the Southern District of Florida in Bankruptcy Cases" for final applications unless otherwise ordered by the court.

(b) Motions to Permit Monthly Payment of Interim Fee Applications. In larger chapter 11 cases, upon motion of a chapter 11 debtor, the court, upon notice and hearing, may consider approval of procedures for monthly payment of interim fee applications of chapter 11 professionals. The motion and proposed Local Form "Order Establishing Procedures to Permit Monthly Payment of Interim Fee Applications of Chapter 11 Professionals" shall be served on the U.S. Trustee, the attorney for each official committee (or if no committee is appointed, the 20 largest unsecured creditors), attorneys for all postpetition lenders (or attorneys for their agents) and all parties who have filed a notice of appearance.

(C) Deadlines for Filing Applications in All Chapter Cases. Unless otherwise ordered by the court, the final application for compensation of any professional must be filed:

- (1)** in chapter 11 cases, not later than 21 days prior to the date of the confirmation hearing, and in cases involving small business debtors not later than 14 days prior to the date of the confirmation hearing, though the applicant may supplement the application with additional supporting documentation under the guidelines at, or prior to, the confirmation hearing, if the application included an estimate of the additional fees and costs necessary through confirmation;
- (2)** in chapter 7 cases converted or reconverted from chapter 11, 12, or 13 cases, for those services rendered and costs incurred during the superseded case, not later than 90 days after the post-conversion meeting of creditors, in accordance with Bankruptcy Rule 3002(c);
- (3)** in chapter 12 cases, not later than two business days prior to the confirmation hearing; and
- (4)** in chapter 13 cases where applications are required:
 - (a)** Prior to confirmation, a local form fee application shall be filed and served on the debtor no later than 14 days prior to the confirmation hearing and notice provided to all interested parties that the fee application will be heard at the confirmation hearing.
 - (b)** Subsequent to confirmation, a local form fee application for fees in conjunction with filing modifications to the plan after confirmation shall be filed and served on the debtor no later than 14 days prior to the hearing on the modified plan, and notice provided to all interested parties that the fee application will be heard with the motion to modify the confirmed plan. Any additional requests for compensation which exceed the amounts permitted under the “Chapter 13 Fee Guidelines” referenced in subdivision (B)(2)(a) of this rule, shall require application and approval in accordance with the “Chapter 13 Fee Guidelines” and shall comply with the notice and hearing requirements of Local Rule 9073-1.
 - (c)** Upon dismissal or conversion of a case prior to confirmation of a plan, a local form fee application shall be filed and served on the debtor by an attorney seeking compensation in excess of the amounts set forth in paragraph (A)(1) of the “Chapter 13 Fee Guidelines”. The application must be filed and served no later than 14 days after entry of the order of

dismissal or conversion, and the applicant shall comply with the notice and hearing requirements of Local Rule 9073-1.

(D) Bankruptcy Petition Preparers Disclosure of Compensation. Bankruptcy petition preparers must submit fee disclosure information pursuant to 11 U.S.C. §110(h), in a format conforming to Administrative Office of the United States Courts Director’s Procedural Form “Disclosure of Compensation of Bankruptcy Petitioner Preparer”. The Official Bankruptcy Form “Declaration and Signature of Non-Attorney Bankruptcy Petitioner Preparer” must be filed with each document prepared for filing by the bankruptcy petitioner preparer as required by 11 U.S.C. §110.

[Comment: See also Bankruptcy Rule 2002(c)(2) (notice of fee applications) and Local Rules 1019-1(F) (deadline for filing postpetition claims), 2002-1(C)(9) (service of fee application), 7054-1(F) (motion for fees and costs in adversary proceeding), 8014-1(F) (motion for fees and costs in appeals), 9013-1(C)(3) (ex parte motions to approve employment) and 9013-1(D)(4)(c) (hearing required).]

Rule 2081-1. Chapter 11 - General.

(A) Required Payroll and Sales Tax Reports.

- (1) Content of Reports.** Chapter 11 debtors (other than individuals not engaged in business) shall file a Local Form “Debtor’s Notice of Filing Payroll and Sales Tax Reports” certifying the amount of payroll and sales tax payments made and those that remain unpaid for the six months preceding the bankruptcy filing (the “Filing Date”). The debtor shall attach to the certified report proof of all payments made for payroll and sales taxes for the six months preceding the Filing Date. The reports shall certify the following:
- (a)** the total amount of payroll taxes that accrued during the six months preceding the filing date, the date(s), amount(s) and place of payment of the payroll taxes for the six months preceding the filing date, and the total amount of payroll taxes still due and owing, if any, as of the filing date, whether owed for the period six months prior to the filing date or from any earlier period; and
 - (b)** the total amount of all gross sales subject to sales tax for the six months preceding the filing date, the date(s) and amount(s) of payment of sales tax for the six months preceding the bankruptcy filing, and the total amount of sales tax still due and owing, if any, as of the filing date, whether owed for the period six months prior to the filing date or from any earlier period.

- (2) **Deadline for Filing.** The report and attachments required by this rule shall be filed within 14 days from the date of filing of the chapter 11 petition, entry of an order for relief under chapter 11 in an involuntary case, entry of an order reinstating the case or entry of an order converting the case to chapter 11.
- (3) **Required Service.** A copy of the certified report shall be served upon the U.S. Trustee, the Internal Revenue Service, the Florida Department of Revenue and any other taxing authority named in the report, and the report shall include a certificate verifying service on these parties.

[Comment: See also Local Rule 2015-1 (reports).]

(B) Required Chapter 11 Case Management Summary.

- (1) **Local Form.** The debtor-in-possession (or chapter 11 trustee, if applicable) is directed to file with the court a completed Local Form “Chapter 11 Case Management Summary” providing the information as set forth in the form.
- (2) **Deadline for Filing.** The summary shall be filed within the earlier of three business days after relief is entered under chapter 11, or one business day prior to the date of the first scheduled hearing.
- (3) **Service.** The summary shall be served on all parties of record.

Rule 2082-1. Chapter 12 - Final Decree and Discharge.

(A) Trustees Final Report Required. Upon completion of administration of a case, the trustee shall file a final report and account.

(B) Local Form “Statement in Individual Cases”. In an individual chapter 12 case, not later than 30 days after the filing of a final report by the trustee, the debtor shall file the required Local Form “Notice of Deadline to Object to Debtor’s Statement Re: 11 U.S.C. §522(q)(1) Applicability, Payment of Domestic Support Obligations, and [For Chapter 11 Cases Only] Applicability of Financial Management Course and Statement Regarding Eligibility to Receive a Discharge”. This statement shall be served on negative notice on all parties of record. Any interested party who fails to file and serve a written objection within 30 days of the filing of the debtor’s statement shall be deemed to have consented to entry of the final decree and discharge of debtor. A certificate of service shall be filed as provided by Local Rule 2002-1(F).

Rule 2083-1. Chapter 13 - General.

(A) Duty of Tax Collector in Dismissed or Converted Cases or Where Stay Relief Has Been Granted to Certificate Holder. In some cases, tax certificate holders may receive payments from the chapter 13 trustee, even if the plan is not confirmed. Any order dismissing or

converting such cases or granting stay relief to the certificate holder prior to confirmation may direct that upon receipt by the tax collector of such order, the tax collector shall request or access the chapter 13 trustee's ledger reflecting the amounts paid to certificate holders. Likewise, in any such case, the order may provide that the tax collector shall adjust the county tax records in the same manner required for payments under a confirmed plan.

(B) Required Review of Claims by Attorney for Debtor.

- (1) Scope of Review Required.** Not later than 21 days after expiration of the claims bar date, the attorney shall examine, from records maintained by the clerk, the claims register and all claims filed in the case to determine whether additional action is necessary, including the filing and service in accordance with all applicable rules of:
- (a)** an amended plan if the plan has not been confirmed;
 - (b)** a motion to modify the confirmed plan; or
 - (c)** objections to nonconforming claims.

☞ 2011 Amendment: Subdivision (B)(1) amended to clarify that attorneys must review the actual filed claims.

- (2) Attorney for Debtor's Notice of Compliance with Claims Review Requirement.** A Local Form "Notice of Compliance by Attorney for Debtor With Local Rule 2083-1(B) Claims Review Requirement" certifying that the review required by subdivision (B)(1) of this rule has been completed shall be filed with the court and served on the trustee and the debtor.
- (3) Failure to Comply.** If the provisions of this rule are not complied with, the trustee may serve upon the attorney for the debtor (with a copy also served on the debtor), a "Trustee's Notice to Attorney for Debtor of Deficiency" which shall provide a 20 day deadline from the date of the notice for the attorney for the debtor to comply. If the deficiency is not cured, the trustee shall file a "Trustee's Report of Non-Compliance with Claims Review Requirement" and the court may dismiss the case without further notice or hearing.
- (4) Pro Se Debtors.** The provisions of this rule do not apply to debtors not represented by an attorney.

Rule 2090-1. Attorneys.

(A) Qualifications to Practice. Except as provided in subdivision (B) of this rule, to be qualified to practice in this court an attorney must:

- (1)** be a member of the Bar of the United States District Court for the Southern District of Florida under the Special Rules Governing the Admission and Practice of Attorneys in the District Court;
- (2)** read and remain familiar with these rules, administrative orders, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Florida Bar's Rules of Professional Conduct, and the Bankruptcy Code; and
- (3)** earn at least 12 credit hours from The Florida Bar for attending or participating in CLE courses related to the subject area of "Bankruptcy Law" during each attorney's Florida Bar three-year CLE reporting requirement. This provision will not preclude an attorney from appearing who is within a three-year CLE reporting period but has not yet earned the required 12 credit hours for that period.

Attorneys appearing pursuant to this subdivision who are not registered users of CM/ECF must include on all papers the certification contained in Local Rule 9011-4(B).

(B) Appearances Permitted as Exceptions to Qualification Requirements. An attorney who has not fulfilled the qualifications to practice set forth in subdivision (A) above, may only appear as set forth in this subdivision. Any attorney who appears pursuant to this rule shall be deemed to be familiar with, and shall be governed by, these rules, and the Rules of Professional Conduct and other ethical limitations or requirements governing the professional behavior of members of The Florida Bar.

- (1) Appearances in Limited Instances.** An attorney may appear in the following limited instances without resort to the requirements contained in subdivision (A) or (B)(2) of this rule: (a) the preparation and filing of a notice of appearance (pursuant to Bankruptcy Rule 9010); (b) a request for service of notices (pursuant to Bankruptcy Rule 2002); (c) the preparation and filing of a proof of claim in chapter 7, 11, 12 or 13 cases, or ballots in chapter 11 cases; (d) the filing of notices under Local Rule 3070-1(B); (e) attendance and inquiry at the meeting of creditors held under 11 U.S.C. §341; and (f) attendance and representation of a creditor at a hearing which has been noticed to all creditors generally, except for representation of a party in a contested matter governed by Bankruptcy Rule 9014, or an adversary proceeding governed by Part VII of the Bankruptcy Rules.

- (2) **Pro Hac Vice Appearances.** Any attorney who is a member in good standing of the bar of any state, territory or insular possession of the United States, and who is qualified to practice in this court but is not a member of the bar of the United States District Court for the Southern District of Florida (a “visiting attorney”), may seek to appear *pro hac vice* in any case or proceeding before this court. Any applicable fee authorized under the Local Rules or General Orders of the United States District Court for the Southern District of Florida for pro hac vice appearances in the bankruptcy court must be paid at the time of filing of a motion to appear pro hac vice.

In a separate affidavit filed with or as part of the motion, the proposed visiting attorney shall certify that he or she is qualified to practice before this court, and that he or she is a member in good standing of the bar of at least one state, territory, or insular possession of the United States, and a member in good standing of the bar of at least one United States District Court, and indicate such jurisdictions. The proposed visiting attorney must certify that he or she has never been disbarred, that he or she is not currently suspended from the practice of law in the State of Florida or any other state, territory, or insular possession of the United States, and that he or she is not currently suspended from the practice of law before any United States Court of Appeals, United States District Court, or United States Bankruptcy Court. The proposed visiting attorney shall designate local counsel consistent with this local rule. The proposed visiting attorney shall acknowledge that local counsel is required to participate in the preparation and the presentation of, and accept service in, the case and any adversary proceedings in which the visiting attorney appears on behalf of the same client or clients, unless and until other local counsel is designated under this local rule (except where the motion is limited to a particular adversary proceeding). The proposed visiting attorney shall certify that he or she is familiar with and shall be governed by the local rules of this court, the rules of professional conduct and all other requirements governing the professional behavior of members of the Florida Bar.

The court may waive the requirement of association with a local attorney upon good cause shown after the filing of a motion requesting such relief. The Local Form “Motion to Appear Pro Hac Vice” and proposed Local Form “Order Admitting Attorney Pro Hac Vice” may be modified as necessary for this purpose.

[Comment: See also Local Rule 9011-4(B)(2), required certification.]

<p>👉 2015 Amendment: Local Rule 2090-1 includes Interim Local Rule 2090-1(B)(2), adopted by Administrative Order 15-02, effective July 1, 2015.</p>

☞ 2011 Amendment: Subdivision (B)(2) is amended to modify the procedures for pro hac vice appearance requests to provide that the local attorney, not the attorney seeking to appear pro hac vice, shall file the local form motion and proposed order, which have also been amended to reflect this change, including incorporation of a new form “Affidavit of Proposed Visiting Attorney” which must accompany the motion.

- (3) Appearances by Government Attorneys.** Any attorney who is an employee of the United States government, an agency thereof, or a state, municipality or agency or political subdivision thereof, may appear and participate in particular actions or proceedings before the court on behalf of such entity in the attorney’s official capacity. Any attorney so appearing is subject to all of the rules of this court.

(C) Attendance at Hearings Required for Debtor’s Counsel.

An attorney who makes an appearance on behalf of a debtor must attend all hearings scheduled in the debtor’s case that the debtor is required to attend under any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or order of the court, unless the court has granted a motion to withdraw pursuant to Local Rule 2091-1.

- (1) Attendance at Initial Debtor Interview (IDI) and Meeting of Creditors (341 Meeting).** An attorney, or a member of his or her firm, who makes an appearance on behalf of a debtor, must accompany the debtor to the initial debtor interview, where applicable, and to the meeting of creditors. The attorney attending the IDI or meeting of creditors must be familiar with the facts and schedules and have met and conferred with the client prior to appearing. The attorney or firm of record may not use an appearance attorney for either the IDI or the meeting of creditors. If the attorney who has met and conferred with the client is unable to attend the IDI or the meeting of creditors, the attorney must seek a continuance, or, in an unexpected emergency, request appearance counsel attend for the sole purpose of seeking the continuance.
- (2) Attendance at Hearing Required for Debtor’s Counsel.** An attorney who makes an appearance on behalf of a debtor, or a member of his or her firm who is familiar with the client and the file, must attend all hearings scheduled in the debtor’s case that the debtor is required to attend under any provision of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, or order of the court, unless the court has granted a motion to withdraw pursuant to Local Rule 2091-1. The attorney may not use appearance counsel for any hearing unless (a) the client consents in advance to the use of the appearance attorney, (b) the client does not incur any expense associated with the use of an appearance attorney,

and (c) the attorney complies with all applicable rules regarding disclosure of any fee sharing arrangements.

☞ 2014 Amendment: Local Rule 2090-1 includes Interim Local Rule 2091-1(C), adopted by Administrative Order 14-01, effective February 14, 2014.

(D) Duties of Debtor’s Counsel.

Unless the attorney has withdrawn as attorney for the debtor pursuant to Local Rule 2091-1, an attorney who files a petition on behalf of a debtor must advise the debtor of, and assist the debtor in complying with, all duties of a debtor under 11 U.S.C. §521.

☞ 2011 Amendment: New subdivisions (C) and (D) set forth additional responsibilities for debtor’s counsel.

Rule 2090-2. Attorney Discipline.

(A) Contempt of Court. Nothing in this rule shall be construed as providing an exclusive procedure for the discipline of attorneys appearing before the court in appropriate cases, nor as a limitation upon the power of the court to punish for contempt in appropriate cases.

(B) Disciplinary Action.

(1) Upon order to show cause entered by at least one judge, any attorney appearing before the court may, after 30 days’ notice and hearing and for good cause shown, be suspended from practice before the court, reprimanded or otherwise disciplined, by a judge whose order to show cause initiated the disciplinary proceedings.

(2) Whenever it appears to the court that any attorney appearing before the court has been (a) disbarred or suspended from practice by the Supreme Court of Florida, (b) disbarred or suspended, for moral turpitude or ethical violations, by the highest court in any state or by any federal court, or (c) convicted of a felony in any court, such disbarment, suspension or conviction shall, 21 days afterwards, operate as an automatic suspension of the attorney’s right to practice in this court. The attorney may file, within such 21 day period, a petition seeking relief from the operation of this subdivision, and if a timely petition is filed, suspension shall be stayed until the petition is heard and determined by a majority vote of the judges of this court.

(C) Peer Review and Grievance Committee. Any of the judges of this court may chose to refer an attorney to the committee established pursuant to the district court’s “Special Rules Governing the Admission and Practice of Attorneys” for proceedings by this committee and by

the district court under those rules, which are adopted into these rules by reference for the purpose of such referrals.

(D) Professional Conduct. The professional conduct of attorneys appearing before this court shall be governed by the Model Rules of Professional Conduct of the American Bar Association as modified and adopted by the Supreme Court of Florida to govern the professional behavior of the members of The Florida Bar.

(E) Courtroom Decorum. The courtroom conduct of all attorneys, including, where the context applies, all persons at the counsel table, shall be governed by the guidelines set forth in the court's "Guidelines for Courtroom Decorum".

(F) Waiver in Exceptional Cases. In an exceptional case, when the interest of justice is best served, the judge before whom the matter is pending may waive the requirements of these rules.

[Comment: See also Bankruptcy Rules 2014 (employment of professionals), 2016 (compensation of professionals) and 9011 (effect of attorney's signature), and Local Rules 2014-1, 2016-1, and 9011-4(A)(1) (attorney's signature block).]

Rule 2091-1. Attorneys - Withdrawals and Substitutions. Except as otherwise provided in this local rule or by order of the court, no appearance by an attorney may be withdrawn in any case or proceeding except by leave of court, after notice served on the client and parties in interest entitled to notice. An attorney for a party in interest other than the debtor who is not a party to any pending contested matter or adversary proceeding may withdraw his or her appearance without court order by filing a notice of withdrawal as attorney, stating the name and mailing address of the client, and serving copies of the notice on the client, the debtor, the trustee, the United States Trustee, and their attorneys. An attorney seeking to withdraw from representing a client in a case or proceeding at a time when such client is represented by other counsel of record in such matter may withdraw his or her appearance by filing a notice of withdrawal that is approved and signed by the client and other counsel of record for the client, and serving copies of the notice on parties in interest entitled to notice. Counsel seeking to withdraw from representation of a client may file a joint motion with counsel seeking to be substituted as counsel for such client, in the relevant case or proceedings, requesting authority of the court for substitution of counsel. Such motion shall certify that the client has consented to the substitution or be signed by the client, and such motion shall be served on the client and parties in interest entitled to notice. Except as provided in Local Rule 2014-1(A), the court may grant a joint motion for substitution of counsel without a hearing. The provisions of this local rule shall be subject to the requirements of the Bankruptcy Code, the Bankruptcy Rules and this court's Local Rules with regard to retention of professionals, disclosure, payment of professionals and related matters.

[Comment: See also Local Rules 2002-1(G) (attorney change of address) and 2002-1(H) (“Master Service List” in chapter 11 cases) and 2014 -1 (A) Employment of Professionals.]

☞ 2011 Amendment: This rule is amended to clarify requirements for withdrawals, and permits ex parte motions for substitutions of counsel.

Rule 3001-1. Proof of Claim.

(A) Form.

- (1) Generally.** A proof of claim shall conform to the requirements of Bankruptcy Rule 3001(a) and Local Rule 9004-1, and the Official Bankruptcy Form “Proof of Claim”, and must be signed by the claimant or the claimant’s agent. A proof of claim may be conventionally or electronically filed. Electronically filed claims are deemed signed upon electronic submission as provided under Local Rule 5005-4(D).
- (2) Customized Clerk Issued Proof of Claim Forms.** A proof of claim form served on a creditor by the clerk that contains the name of the debtor and a creditor is intended for use by that creditor only in that case.

☞ 2011 Amendment: Subdivision (A)(1) of this rule is amended to provide that the electronic signature provision of Local Rule 5005-4(D) shall apply to proofs of claim that are permitted to be filed electronically, including those permitted to be filed using any electronic filing program established for non registered users of CM/ECF as provided on the court’s website.

(B) Administrative Claims. Unless otherwise ordered by the court, requests for payment of administrative expenses shall comply with the requirements of Local Rule 1019-1(F), 2016-1(C)(2), 9013-1, 9013-3 and 9073-1, which requirements include the filing of a motion or application for payment, except as provided under 11 U.S.C. §503(b)(1)(D). A claim filed on the Official Bankruptcy Form “Proof of Claim” alleging a §503 administrative claim does not comply with these requirements, is not effective, and shall not be set for hearing, even though such form may be docketed on the claims register.

(C) Transferred Claim.

- (1) Submission Requirements.** Any assignment or other evidence of a transfer of claim filed after a proof of claim has been filed, shall include the claim number of the claim to be transferred. In chapter 11 cases, any assignment or other evidence of a transfer of claim filed where no proof of claim has been filed, shall include reference to the scheduled claim, including classification and amount.

- (2) **Order Not Required.** Absent any timely filed objection to the notice of transfer served by the clerk, the claim shall be, without any further order of the court, noted as transferred on the records of the court.
- (3) **Notice Not Required.** Where evidence of full or partial transfer of a claim is filed which contains the signatures of both the transferor and transferee, and such evidence of transfer is filed pursuant to Bankruptcy Rule 3001(e)(2) and (4), and in accordance with the local rules, the clerk shall not provide notice of the filing of evidence of the transfer and no objection deadline shall be established. The transferor shall be deemed to have waived any objections to the transfer and the claim shall be noted as transferred in the records of the court.

☞ 2011 Amendment: Subdivision (C)(3) of this rule is amended to also reference Bankruptcy Rule (e)(2).

Rule 3002-1. Filing Proof of Claim or Interest in Chapter 7, 12, or 13 Cases.

(A) Chapter 7 No-Asset Cases. Claims Deadline in Cases Converted from Chapter 13 to Chapter 7. Upon the filing of a “Notice of Assets”, a deadline for filing claims shall be established as provided by Bankruptcy Rule 3002(c)(5), and noticed pursuant to Local Rule 2002-1(C)(7). Claims deadlines in chapter 13 cases converted to chapter 7 cases shall be established as provided by Bankruptcy Rule 3002(c)(5) and Local Rule 1019-1(E).

(B) Modification of Claims Deadline. The deadline in Bankruptcy Rule 3002(c) for filing a proof of claim in a chapter 7, 12 or 13 case is modified in the following circumstances for non-governmental unit claimants:

[Comment: See 11 U.S.C. §502(b)(9) (claims deadline for governmental units).]

- (1) **Meeting of Creditors Untimely Noticed.** If service of the §341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a), and as a result of this failure to provide notice, the §341 meeting must be rescheduled before another notice can be served, the deadline for filing a proof of claim or interest shall be 90 days after the rescheduled date of the §341 meeting.
- (2) **Case Dismissed and Reinstated.** If a case is dismissed prior to the expiration of the claims deadline and subsequently reinstated:
 - (a) In a case dismissed before the §341 meeting is held, the new deadline for filing a proof of claim or interest shall be 90 days after the rescheduled §341 meeting; and

- (b) In a case dismissed after the §341 meeting is held, the new deadline for filing a proof of claim or interest shall be 90 days from execution of the order reinstating the case.

Local Form “Order Reinstating Chapter 13 Case” is required for any reinstated chapter 13 case. Any other proposed order reinstating a case submitted for consideration by the court in chapter 7 or chapter 12 cases must contain the new deadlines prescribed by this rule for reinstated cases. The clerk shall provide notice of the new deadline.

☞2011 Amendment: Subdivision (B) of this rule is amended to remove references to orders vacating dismissal and replace them with references to orders reinstating the case.

(C) Deadline for Claims Arising from Rejection of Contracts or Leases. Unless otherwise ordered by the court, any proof of claim arising pursuant to 11 U.S.C. §502(g), from the rejection of an executory contract or unexpired lease, must be filed on or before the latest of: i) the time for filing a proof of claim pursuant to Bankruptcy Rule 3002(c) or Local Rule 3002-1(A), whichever is applicable; ii) 30 days after the entry of the order compelling or approving the rejection of the contract or lease; or iii) 30 days after the effective date of the rejection of the contract or lease. The order of rejection shall contain the notice mandated by Local Rule 6006-1.

[Comment: See Bankruptcy Rule 3002(c)(4) (deadline for claims arising from rejection).]

☞2011 Amendment: Subdivision (C) of this rule is amended to clarify deadlines for filing a proof of claim arising pursuant to 11 U.S.C. §502(g), from the rejection of an executory contract or unexpired lease.

(D) Deadline for Filing Claims in Chapter 7 Cases Reopened to Administer Assets. Upon the filing by a trustee of a “Notice of Assets” in a reopened chapter 7 case:

- (1) If no claims deadline was established in the original case or if a claims deadline was established and rendered moot by the filing of a “Report of No Distribution” by the trustee in the original case, the court shall set a deadline of 90 days from issuance of the clerk’s Notice of Deadline to File Claims. For governmental units, the deadline shall be this deadline or 180 days after relief was ordered in the original chapter 7 case, whichever is later. Any claims filed during the pendency of the original case shall be deemed filed in the reopened case.
- (2) If a claims deadline established in the original case expired prior to the filing of a “Report of No Distribution” by the trustee, or if a distribution was made to creditors by the trustee subsequent to the expiration of a claims deadline in the original case, no additional claims deadline shall be established. Creditors

considered for distributions shall be those creditors who filed claims in the original case.

(E) Service of a Proof of Claim in Chapter 13 Cases. In a chapter 13 case where the debtor is pro se, the party filing a proof of claim shall serve, via U.S. mail, a copy of the claim, including all attachments required pursuant to Local Rule 3001-1(A)(3), upon the debtor. Service on the chapter 13 trustee or the attorney for the debtor is not required since these parties will automatically receive access to the claim and attachments electronically in CM/ECF.

[Comment: See Local Rules 1019-1(F) (deadline for filing postpetition claim in reconverted case) and 2083-1(B) (additional review of claims and service of copies by attorney for chapter 13 debtor required).]

Rule 3003-1. Filing Proof of Claim or Interest in Chapter 11 Cases.

(A) Deadline. Unless otherwise ordered by the court and except as provided by 11 U.S.C. §502(b)(9), the deadline for filing a proof of claim or interest required by Bankruptcy Rule 3003(c)(2) shall be 90 days after the first date scheduled for the meeting of creditors. Notice of this deadline shall be provided, pursuant to Bankruptcy Rules 2002(a)(7) and 2002(f)(3) and Local Rule 2002-1(C)(1), in the §341 or post-conversion meeting notice.

[Comment: See 11 U.S.C. §502(b)(9) (claims deadline for governmental units).]

(B) Modification of Claims Deadline. The deadline set pursuant to subdivision (A) of this rule or by order of the court for filing a proof of claim or interest in chapter 11 cases is modified in the following instances for non-governmental unit claimants:

- (1) Meeting of Creditors Untimely Noticed.** If service of the §341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a) and Local Rule 2002-1(C)(1), and as a result of this failure to provide notice the §341 meeting must be rescheduled before another notice can be served, the deadline for filing a proof of claim or interest shall be 90 days after the rescheduled date of the §341 meeting.
- (2) Case Dismissed and Reinstated.** If a chapter 11 case is dismissed prior to the expiration of the claims deadline and subsequently reinstated:
 - (a)** In a case dismissed before the §341 meeting is held, the new deadline for filing a proof of claim or interest shall be 90 days after the rescheduled §341 meeting.
 - (b)** In a case dismissed after the §341 meeting is held, the new deadline for filing a proof of claim or interest shall be 90 days from execution of the order reinstating the case.

Any other proposed order reinstating a case submitted for consideration by the court in chapter 11 cases must contain the new deadlines prescribed by this rule for reinstated cases. The clerk shall provide notice of the new deadline.

☞2011 Amendment: Subdivision (B)(2)(b) of this rule is amended to remove reference to “order vacating the order of dismissal” and replacing it with “order reinstating the case”.

(C) Deadline for Claims Arising from Rejection of Contracts or Leases. Unless otherwise ordered by the court, a proof of claim arising pursuant to 11 U.S.C. §502(g), from the rejection of an executory contract or unexpired lease, must be filed on or before the latest of: i) the time for filing a proof of claim pursuant to Bankruptcy Rule 3002(c); ii) 30 days after the entry of the order compelling or approving the rejection of the contract or lease; or iii) 30 days after the effective date of the rejection of the contract or lease. The order of rejection shall contain the notice mandated by Local Rule 6006-1.

[Comment: See Local Rule 6006-1 (deadline notice to be included in orders rejecting executory contracts).]

☞2011 Amendment: Subdivision (C) of this rule is amended to clarify deadlines for filing a proof of claim arising pursuant to 11 U.S.C. §502(g), from the rejection of an executory contract or unexpired lease.

Rule 3007-1. Objections to Claims.

(A) Service. A party filing an objection to claim shall serve a copy of the objection on (1) the claimant at the claimant’s address of record or, if the claim has been transferred, at the transferee’s address of record, and on (2) any attorney of record in the bankruptcy case for the claim holder. If the claim holder is the United States, service shall also be made as prescribed by Bankruptcy Rule 7004(b)(4).

[Comment: See Local Rule 3001-1(C) (transferred claim).]

(B) Deadline for Filing Objections.

(1) Chapter 11 Cases. Except as otherwise ordered by the court, in a chapter 11 case, objections to claims must be filed not later than the deadline set in the orders required to be served in standard or small business cases under Local Rules 3017-1 and 3017-2.

(2) Chapter 13 Cases - Objections. Objections to claims in chapter 13 cases which are filed and served on the claimant and the debtor at least 14 days prior to the confirmation hearing shall be designated as “timely pre-confirmation

objections”. “Timely pre-confirmation objections” shall be heard at the confirmation hearing and the provisions of subdivisions (C) and (D) of this rule, including the 30 day notice requirement, shall not apply. Objections filed pursuant to this rule must comply with Bankruptcy Rule 3007, and must substantially conform to the Local Form “Objection to Claim on Shortened Notice”. Notwithstanding the requirements of Bankruptcy Rule 3007, up to five objections to claim may be included in one pleading, excluding any objections to a claim for which a motion to value collateral has been filed. Objections to claims filed less than 14 days before the confirmation hearing or filed after a plan is confirmed, shall require at least 30 days notice and be filed in accordance with the provisions of subdivisions (A), (C), (D) and (E) of this rule.

(C) Content of Objections. Objections to claims, other than those filed pursuant to subdivision (B)(2) of this rule, must comply with Bankruptcy Rule 3007, and must conform substantially to the Local Form “Objection to Claim”. A certificate of service shall be filed in accordance with Local Rule 2002-1(F). Notwithstanding the requirements of Bankruptcy Rule 3007, up to five objections to claim may be included in one pleading.

(D) Relief Without Hearing; Hearings.

- (1)** If no written response contesting the objection is filed within 30 days after the date of service, the failure to respond shall be deemed a consent by the affected claimant and the court may grant the relief requested by the objecting party without hearing.
- (2)** It shall be the responsibility of the objecting party, after the claimant’s time to respond has expired, to submit, as appropriate, either or both:
 - (a)** the Local Form “Certificate of Contested Matter”, regarding claimants who contested the objection;
 - (b)** the Local Form “Certificate of No Response or Settlement” and proposed order granting the requested relief, regarding claimants who did not contest the objection or agreed to a settlement.

(E) Orders. Proposed orders on objections to claims shall recite in the body:

- (1)** the claim holder’s name and claim number;
- (2)** whether the objection to the claim is sustained or overruled;
- (3)** whether the claim is allowed or disallowed; and
- (4)** the allowed amount and priority, if any, of the allowed claim.

Orders sustaining objections to claims shall conform to the Local Form "Order Sustaining Objection to Claims".

[Comment: See also Local Rule 3015-3(A)(4) Chapter 13 valuation of collateral securing claims - Treatment of Unsecured Portion of Collateralized Obligation.]

Rule 3009-1. Preparation, Filing, and Service of Final Report By Trustee. Required Local Form "Trustee's Summary of Requested Fees and Expenses." Deadline for Objection to Report of Estate.

(A) Preparation, Filing, and Service of Final Report By Trustee. A "Notice of Trustee's Final Report and Applications for Compensation (NFR)" shall be prepared, filed and served, as may be required under Bankruptcy Rules 2002(a)(6) and 2002(f)(8), by the assigned chapter 7 trustee not later than 14 days after the "Trustee's Final Report (TFR)" is filed with the court. A certificate of service of the "Notice of Trustee's Final Report and Applications for Compensation (NFR)" shall also be filed by the trustee as required under Local Rule 2002-1(F).

(B) Required Local Form "Trustee's Summary of Requested Fees and Expenses." Local Form "Trustee's Summary of Requested Fees and Expenses" shall be filed by the trustee within 14 days after the "Trustee's Final Report (TFR)" is filed with the court. If the trustee is required to prepare, file and serve the "Notice of Trustee's Final Report and Applications for Compensation (NFR)," the Local Form "Trustee's Summary of Requested Fees and Expenses" must also be served along with the "Notice of Trustee's Final Report and Applications for Compensation (NFR)".

(C) Deadline for Objection to Report of Estate. Any objections to the final report or applications for compensation listed in the "Notice of Trustee's Final Report and Applications for Compensation (NFR)" shall be filed not later than 21 days after the service of the notice.

[Comment: No notice of the trustee's final report will be provided to creditors if the net proceeds realized do not exceed the amount set forth in Bankruptcy Rule 2002(f)(8) and if no application for compensation or reimbursement of expenses totals in excess of the amount set forth in Bankruptcy Rule 2002(a)(6). See also Bankruptcy Rules 2016(a) (copy of fee applications to be served on U.S. Trustee) and 9034(k) (U.S. Trustee's authority to require notice) and Local Rules 1019-1(F) (deadline for filing postpetition claims), 2002-1(C)(10) (when notice of final accounts and notice of final fee applications required) and 2016-1(C) (deadline for fee applications).]

Rule 3010-1. Deposit of Small Dividends. The trustee shall pay over to the court any funds left undistributed pursuant to Bankruptcy Rule 3010, accompanied by the Local Form "Notice of Deposit of Funds with the U.S. Bankruptcy Clerk".

Rule 3011-1. Unclaimed Funds.

(A) Deposit by Chapter 7, 12, or 13 Trustee. The chapter 7, 12 or 13 trustee shall deposit with the court any funds left undistributed pursuant to Bankruptcy Rule 3011, accompanied by the Local Form “Notice of Deposit of Funds with the U.S. Bankruptcy Clerk”.

[Comment: See also 11 U.S.C. §347(a) (deposit of unclaimed funds after final distribution).]

(B) Disposition of Unclaimed Funds Under A Chapter 11 Liquidating Plan.

- (1)** The disbursing agent under a chapter 11 plan which provides for the complete liquidation of the property of the debtor shall, when making final distribution under the plan:
 - (a)** Notify such entity, if any, that purchased all of the debtor’s assets under the chapter 11 plan, of its potential right to the unclaimed funds to the extent the disbursing agent can identify such an entity.
 - (b)** Unless the plan otherwise provides, pay over to the court any funds left unclaimed 120 days after the final distribution under the plan, accompanied by the Local Form “Notice of Deposit of Funds with the U.S. Bankruptcy Clerk”.
 - (c)** File a final account under 11 U.S.C. §1106(a)(7), prior to the expiration of time provided in 11 U.S.C. §1143, and all other reports required by Local Rule 3022-1.
- (2)** A chapter 11 liquidating plan may provide that any unclaimed funds may be redistributed to other creditors or administrative claimants or donated to a not-for-profit, non-religious organization identified in the plan or disclosure statement accompanying the plan.

(C) Disposition of Undistributable Funds Under a Chapter 11 Liquidating Plan.

- (1)** Undistributable funds are any funds other than unclaimed funds, including, but not limited to, funds that cannot be disbursed because: (a) a creditor has affirmatively rejected a distribution, (b) the administrative costs of distribution effectively interfere with distribution, or (c) all creditors, including administrative claimants, have been paid in full and there is no one that has a right to the funds.
- (2)** A chapter 11 liquidating plan may provide that any undistributable funds, if applicable or practicable, may be redistributed to other creditors or administrative claimants or donated to a not-for-profit, non-religious

organization identified in the plan or disclosure statement accompanying the plan.

- (3) If a chapter 11 liquidating plan does not provide for the disposition of undistributable funds then, if there are any such funds at the time of final distribution under the plan, the disbursing agent shall file a motion, upon notice and hearing, proposing disposition of such funds, including as described in subdivision (C)(2) of this local rule.

[Comment: Compare 11 U.S.C. §347(b) (return of unclaimed funds to debtor in reorganization cases).]

(D) Withdrawal of Unclaimed Funds. The court shall consider a request for withdrawal of unclaimed funds submitted in accordance with the “Clerk’s Instructions for Deposits Into and Withdrawal From Unclaimed Funds”.

Rule 3012-1. Valuation of Collateral. Motions to value collateral pursuant to Bankruptcy Rule 3012 shall be served on the affected creditors in accordance with Bankruptcy Rule 7004. In a chapter 13 case, valuation of secured property shall also be in accordance with Local Rule 3015-3(A). A separate motion to value collateral that is an interest in real property, a motor vehicle, a motor home, a boat, a ship or a manufactured home, is required for each such asset for which relief is sought; any motion seeking valuation of more than one asset may be denied without hearing. Motions to value personal property other than a motor vehicle, a motor home, a boat, a ship or a manufactured home may seek to value more than one item of personal property, but each item of personal property must be identified, even if the property is valued as a group.

[Comment: Motions to value collateral may only seek to value one piece of collateral. However, parties may include more than one piece of collateral for most items of personal property so long as each item of property is identified (e.g. “chairs” would not be acceptable, but “five straight back chairs and one armchair” would be).]

Rule 3015-1. Chapter 12 and Chapter 13 Plans.

(A) Chapter 12 Case.

- (1) **Filing of Plan.** A proposed order which substantially conforms to the Local Form “Order (I) Setting Hearing on Confirmation of Plan; (II) Setting Deadline for Filing Objections to Confirmation; (III) Setting Hearing on Fee Applications; and (IV) Directing Debtor To Serve Notice” must accompany the filing of the plan in a chapter 12 case.
- (2) **Notice.** The debtor shall serve the plan, and the Local Form “Order (I) Setting Hearing on Confirmation of Plan; (II) Setting Deadline for Filing Objections to

Confirmation; (III) Setting Hearing on Fee Applications; and (IV) Directing Debtor to Serve Notice” in accordance with the provisions of the order.

- (3) **Objections to Confirmation.** Objections to confirmation of the plan must be filed at least three business days prior to the confirmation hearing.

[Comment: See Local Rule 2002-1(C)(11) (service of order confirming plan).]

(B) Chapter 13 Case.

- (1) **Filing of Plan.** A chapter 13 plan must conform to the Local Form “Chapter 13 Plan”.
- (2) **Service of Plan on Trustee.** Copies of the Local Form “Chapter 13 Plan” shall be served as provided by Local Rule 2002-1(C)(5).

[Comment: See also Local Rules 3012-1 and 3015-3(A) (valuation of collateral), 3070-1 (plan payments must commence to the chapter 13 trustee not later than 30 days after filing the petition).]

Rule 3015-2. Amendments to Chapter 13 Plans.

- (A) **Deadline for Filing Amended Plans.** An amended plan must be filed and served as required by these rules at least 14 days prior to the confirmation hearing in order to be considered.

[Comment: See also Local Rules 5005-1(F)(1) and (F)(2) (Two-day submission requirement on response to motions and emergency filing procedures do not apply) and Local Rule 9013-1(D)(4) (Chapter 13 plan may not be amended on negative notice).]

- (B) **Notice.** Copies of the amended plan shall be served as provided by Local Rule 2002-1(C)(5).

Rule 3015-3. Chapter 13 Confirmation.

(A) Valuation of Collateral Securing Claims.

- (1) **Valuation of Collateral.** A chapter 13 debtor seeking to value collateral securing a claim in a chapter 13 plan pursuant to 11 U.S.C. §506(a) and Bankruptcy Rule 3012, must file a motion requesting such relief. If the collateral consists of real property, the debtor shall file the Local Form “Motion to Value and Determine Secured Status of Lien on Real Property.” If the collateral consists of personal property, the debtor shall file the Local Form “Motion to Value and Determine

Secured Status of Lien on Personal Property.” The movant shall schedule the motion for hearing in accordance with this court’s self-calendaring guidelines, allowing for at least 21 days service of the motion and notice of hearing. The debtor must serve the motion, notice of hearing and the chapter 13 plan on the affected creditor in accordance with Bankruptcy Rule 7004.

- (2) Objections to Debtor’s Declared Valuation.** Any objections to the valuation of collateral contained in a chapter 13 plan and in a motion to value collateral must be filed with the court and served on the chapter 13 trustee, the debtor and counsel for the debtor, if any, at least two business days before the date of the hearing on the motion to value collateral. If no timely objection to the proposed valuation is filed, the valuation specified in the plan will be binding upon the affected secured creditor, and the debtor shall submit a proposed order. If the collateral consists of real property, the debtor shall submit a proposed order consistent with the Local Form “Order Granting Motion to Value and Determine Secured Status of Lien on Real Property Held By ____.” If the collateral consists of personal property, the debtor shall submit a proposed order consistent with the Local Form “Order Granting Motion to Value and Determine Secured Status of Lien on Personal Property Held By ____.”
- (3) Hearing on Objections to Valuation.** Objections to the debtor’s proposed valuation pursuant to 11 U.S.C. §506(a) shall be heard at the evidentiary hearing set on the motion to value collateral. The debtor shall submit a proposed order. If the collateral consists of real property, the debtor shall submit a proposed order consistent with the Local Form “Order Granting Motion to Value and Determine Secured Status of Lien on Real Property Held By ____.” If the collateral consists of personal property, the debtor shall submit a proposed order consistent with the Local Form “Order Granting Motion to Value and Determine Secured Status of Lien on Personal Property Held By ____.”

☞ 2011 Amendment: Subdivision (A)(2) of this rule is amended to require written objection two business days before the hearing on the motion to value collateral and also incorporates changes to subdivisions (A)(1), (2), and (3) and to local forms implemented by AO 10-1 and AO 10-2.

- (4) Treatment of Unsecured Portion of Collateralized Obligation.**
- (a)** If the creditor filed a proof of claim prior to the filing of the motion to value collateral, if the debtor has an objection to the claim, the debtor must file an objection to the claim at the same time, or prior to, the filing of the motion to value collateral. If the debtor does not file an objection

to the claim, that portion of the debt that is found to be unsecured shall be allowed as an unsecured claim in the debtor's chapter 13 case and be paid in accordance with the debtor's chapter 13 plan. The order on the motion to value shall specify the amount of the creditor's secured claim and the amount of the creditor's unsecured claim.

- (b) If the creditor did not file a proof of claim prior to the filing of the motion to value collateral, the creditor will have until the later of the claims bar date or 21 days from the date the motion to value collateral is served, to file a proof of claim for the unsecured amount of the claim, or the creditor will be deemed to have waived the right to payment of the unsecured claim. The creditor will participate in distributions on account of the unsecured claim only from the date the claim is filed, and the chapter 13 trustee will not be required to seek return of any portion of prior distributions to other unsecured creditors. The debtor or the trustee has the right to object to the proof of claim.

(B) Confirmation of Plan.

(1) Objections to Confirmation.

- (a) Establishment of Deadline for Objection in Chapter 13 Cases to Confirmation Scheduled Earlier Than 20 days After the Date of the §341 Meeting of Creditors. As allowed under §1324(b), the court has determined it is in the best interest of the creditors and the estate to hold the confirmation hearing earlier than 20 days after the date of the meeting of creditors. Any creditor objecting to holding confirmation earlier shall object at or before the meeting of creditors. Notice of this objection deadline shall be included in the §341 meeting notice.
- (b) Objections to Confirmation of the Plan. Except for objections to confirmation based on valuation of collateral in the plan, objections to confirmation of the plan must be raised at or before the §341 meeting, and any written objection must be filed at or before the meeting, or the objection is deemed waived.

- (2) **Confirmation Process.** Debtors must file the Local Form "Debtor Certificate of Compliance and Request for Confirmation of Chapter 13 Plan". If the certificate is not filed at or prior to the meeting of creditors, the case will proceed to the scheduled confirmation hearing and the certificate must be filed at or prior to the confirmation hearing. Confirmation may occur earlier than the originally scheduled hearing as follows:

- (a) The chapter 13 trustee is authorized to cancel the previously scheduled confirmation hearing of any chapter 13 case and submit a proposed “Order Confirming Uncontested Chapter 13 Plan”, if the debtor has filed the Local Form “Debtor Certificate of Compliance and Request for Confirmation of Chapter 13 Plan” at or prior to the meeting of creditor and the plan does not seek to value collateral pursuant to Local Rule 3015-3(A), and: (i) no oral or written objection to confirmation is raised at or before the meeting of creditors, or (ii) an oral or written objection to confirmation is raised at or before the meeting of creditors but it is withdrawn or the objection is settled by the parties at or before the meeting of creditors.
- (b) If a chapter 13 plan is amended at or before the meeting of creditors and neither the original plan nor the amendment results in the debtor seeking to value collateral in the plan pursuant to Local Rule 3015-3(A), and if the debtor has filed the Local Form “Debtor Certificate of Compliance and Request for Confirmation of Chapter 13 Plan” at or prior to the meeting of creditors and no oral or written objection is raised thereto at or before the meeting of creditors that is not withdrawn or settled by the parties, the chapter 13 trustee is authorized to cancel the confirmation hearing and submit a proposed “Order Confirming Uncontested Chapter 13 Plan and Notice of Opportunity to Object to Amended Plan”. The trustee shall serve a copy of the amended plan, and a copy of the “Order Confirming Uncontested Amended Chapter 13 Plan and Notice of Opportunity to Object to Amended Plan” on all parties of record. This order and notice shall notify any creditor whose treatment under the amended plan was amended from the plan as originally filed, of the right to object within 28 days of entry of the Order.
- (3) **Order Confirming Plan.** Upon confirmation of a chapter 13 plan, the applicable local form chapter 13 plan confirmation order shall be served pursuant to Local Rule 2002-1(C)(11). All orders confirming plan shall contain the provisions addressing payment to tax certificate holders and requirements for tax collectors required under Local Rule 2083-1(A).

[Comment: See also Local Rules 6006-1(B) (confirmation order shall contain language regarding status of executory contracts or unexpired leases of chapter 13 debtors), 6007-1(B)(2) (notice of abandonment of property by the chapter 13 trustee will be provided in the confirmation order).]

Rule 3016-1. Filing of Plan and Disclosure Statement in Small Business Chapter 11 Cases. In small business chapter 11 cases, a chapter 11 plan and disclosure statement filed by any plan proponent must conform to the Official Bankruptcy Forms “Plan of Reorganization in Small Business Case under Chapter 11” and “Disclosure Statement in Small Business Case under Chapter 11.”

Rule 3016-2. Filing of Plan and Disclosure Statement in Standard Chapter 11 Cases.

(A) Order Setting Disclosure Hearing. In all standard (non-small business) chapter 11 cases, the court shall enter an “Order (I) Setting Hearing to Consider Approval of Disclosure Statement; (II) Setting Deadline for Filing Objections to Disclosure Statement; and (III) Directing Plan Proponent to Serve Notice” which must be served by the proponent of the chapter 11 plan.

(B) Order Setting Confirmation Hearing. Upon approval of the disclosure statement, the court shall enter the “Order (I) Approving Disclosure Statement; (II) Setting Hearing on Confirmation of Plan; (III) Setting Hearing on Fee Applications; (IV) Setting Various Deadlines; and (V) Describing Plan Proponent’s Obligations” which must be served by the plan proponent. *[Comment: See also “Guidelines for Preparing, Submitting, and Serving Orders” (blanks for deadlines in form order shall be left blank).]*

Rule 3017-1. Disclosure Statement and Confirmation Hearing - Standard Chapter 11 Cases.

The provisions in this subdivision apply to any chapter 11 plan and disclosure statement filed by any plan proponent other than a small business debtor.

[Comment: See also Bankruptcy Rules 3017(a) and (f) (service of plan and disclosure statement on other parties required).]

(A) Deadline for Objecting to Disclosure Statement. Objections to a disclosure statement must be filed, and a copy delivered to the plan proponent, at least seven days before the hearing on approval of the disclosure statement. The objecting party shall confer with the plan proponent at least three business days before the hearing in an effort to resolve any objections to the disclosure statement. The objection shall include a request for dismissal or conversion of the case if the objecting party will be seeking that relief at the disclosure hearing.

(B) Service of Plan, Disclosure Statement, Ballot, and Notice; Deadline for Service.

(1) At least 30 days before the date set for the hearing on approval of the disclosure statement, the plan proponent shall serve the “Order (I) Setting Hearing to Consider Approval of Disclosure Statement; (II) Setting Deadline for Filing Objections to Disclosure Statement; and (III) Directing Plan Proponent to Serve Notice” on the parties required by Bankruptcy Rules 2002(b), 2002(d), and 2002(j), and on the U.S. Trustee, and shall serve the plan and disclosure statement as required by Bankruptcy Rule 3017(a) and (f).

(2) After court approval of the disclosure statement and at least 40 days before the date set for the confirmation hearing, or as otherwise directed by the court, the plan proponent shall serve the “Order (I) Approving Disclosure Statement; (II) Setting Hearing on Confirmation of Plan; (III) Setting Hearing on Fee Applications;

(IV) Setting Various Deadlines; and (V) Describing Plan Proponent's Obligations" together with the plan and disclosure statement, on the parties required by Bankruptcy Rule 3017(d) and shall serve a ballot in the form required by Local Rule 3018-1 on all creditors and equity security holders entitled to vote on the plan. The proponent of the plan must serve the customized ballot and instructions via U.S. Mail on any party who has received the order and copies of the plan and disclosure statement electronically.

Rule 3017-2. Disclosure Statement Approval and Confirmation - Small Business Cases. The provisions in this subdivision apply to any chapter 11 plan and disclosure statement filed by a small business debtor.

(A) Procedures for Conditional Approval of Disclosure Statement. Upon filing a plan and disclosure statement, a combined plan and disclosure statement or a plan that contains the disclosures required by 11 U.S.C. §1125(a) (each being referred to as a "Proposed Disclosure Document"), the plan proponent shall serve a copy of the Proposed Disclosure Document on the U.S. Trustee and each party in interest that is entitled to receive a copy thereof, together with a notice that objections based on inadequate disclosure under Bankruptcy Code §1125(a), must be filed within 14 days after service of the Proposed Disclosure Document. If no objection is filed within 14 days after service of the Proposed Disclosure Document, and the court does not otherwise determine to set a hearing on approval, the court may issue its "Order (I) Conditionally Approving Proposed Disclosure Document; (II) Setting Hearing on Final Approval of Proposed Disclosure Document and Confirmation of Plan; (III) Setting Hearing on Fee Applications; (IV) Setting Various Deadlines and (V) Describing Plan Proponent's Obligations" which the plan proponent shall serve as provided under subdivision (B) below. If an objection to the adequacy of the Proposed Disclosure Document is timely filed, the court may, in its sole discretion, enter the order described in this subparagraph, or set a final hearing to determine the adequacy of the Proposed Disclosure Document prior to transmission of the plan pursuant to Bankruptcy Rule 3017(d).

(B) Combined Hearing on Approval of the Disclosure Statement and Confirmation of the Plan. If a plan proponent files with this court a separate chapter 11 plan and disclosure statement, or a combined chapter 11 plan and disclosure statement, the form of which has been approved for use in small business cases by this court, then the plan proponent may request that the court combine the hearing on approval of the disclosure statement with the hearing on confirmation of the chapter 11 plan. Upon approval of the request and entry of an "Order (I) Setting Hearing on Approval of the Disclosure Statement and Confirmation of Plan; (II) Setting Hearing on Fee Applications; (III) Setting Various Deadlines; and (IV) Describing Plan Proponent's Obligations", the plan proponent shall serve the foregoing order on the parties required by Bankruptcy Rule 3017(d), along with a ballot in the form required by Local Rule 3018-1, on all creditors and equity security holders entitled to vote on the plan, as well as the U.S. Trustee. The order shall schedule a hearing on confirmation no later than 30 days from its issuance. Objections to the disclosure statement based on inadequate disclosure under Bankruptcy Code §1125(a), or to confirmation of the chapter 11 plan under §§1122, 1123,

1124, 1126, 1127 or 1129 of the Bankruptcy Code, shall be filed with the court within three business days prior to the confirmation hearing. Even if no timely objections are filed, the court shall proceed with the confirmation hearing at the scheduled date and time. The proponent of the plan must serve the customized ballot and instructions via U.S. mail on all parties who have received the order and copies of the plan and disclosure statement electronically.

[Comment: The small business debtor who elects to use the court approved forms for small business plans and disclosure statements, or a combined court approved form, may follow the procedure described in Local Rule 3017-2(B) and bypass the process described in Local Rule 3017-2(A). All other plans that include disclosure information, whether or not titled as a combined plan and disclosure statement, or plans and disclosure statements filed separately, will be subject to the approval procedure set forth in Local Rule 3017-2(A). See also Bankruptcy Rules 2002(b) and (d) and 3017(a) and (d) and Local Rule 2002-1(C)(8) (service of plan, disclosure statement, ballot, and local form order required) and Bankruptcy Rules 2002(k) and 9034 (service on U.S. Trustee required). See also Local Rule 2002-1(C)(9) (service of notice of fee applications).]

Rule 3017-3. Disclosure Statement Approval and Confirmation Hearing - Prepackaged Chapter 11 Cases. A debtor seeking authority to confirm a “Prepackaged Chapter 11 Case” as contemplated by 11 U.S.C. §1126(b) shall comply with the court’s “Guidelines for Prepackaged Chapter 11 Cases”.

Rule 3018-1. Ballots. Voting on Chapter 11 Plan - Deadline.

(A) General. Ballots shall conform to the Local Form “Ballot and Deadline For Filing Ballot Accepting Or Rejecting Plan” and shall be customized prior to service via U.S. Mail on each creditor by the plan proponent to reflect the class of that creditor. Ballots shall be filed electronically by registered users or conventionally and entered on the electronic docket by the clerk. Ballots will appear on the docket on the date filed. The CM/ECF system will generate a ballot summary report of all ballots filed in the case with a hyperlink to each PDF ballot image.

(B) Deadline for Filing. Except as otherwise ordered by the court, ballots accepting or rejecting a chapter 11 plan shall be filed with the court at least 14 days before the confirmation hearing; provided, however, that in small business cases ballots shall be filed at least seven days before the confirmation hearing.

[Comment: See also Local Rules 3017-1(B) (service of ballot), 3020-1(A) (deadline for objecting to confirmation).]

Rule 3020-1. Confirmation of Chapter 11 Plans.

(A) Deadline for Objections to Confirmation. Objections to confirmation of a plan shall be

filed at least 14 days before the confirmation hearing; provided, however, that in a small business case, objections shall be filed at least three business days before the confirmation hearing.

(B) Proponent's Report, Confirmation Affidavit, and for Individual Debtors, Certificate re Domestic Support Obligations and Filing of Tax Returns. The proponent of a chapter 11 plan shall file the Local Form "Certificate of Proponent of Plan on Acceptance of Plan, Report on Amount to be Deposited, Certificate of Amount Deposited and Payment of Fees" and the Local Form "Confirmation Affidavit" at least three business days before the confirmation hearing. If the debtor is an individual, the debtor shall also file the Local Form "Individual Debtor Certificate for Confirmation Regarding Payment of Domestic Support Obligations and [For Chapter 11 Cases] Filing of Required Tax Returns" at least three business days before the confirmation hearing.

(C) Payment of Clerk's and U.S. Trustee's Fees. A plan shall not be confirmed unless the plan proponent's report required by this rule certifies that all outstanding fees payable to the clerk and the U.S. Trustee under 28 U.S.C. §1930 have been paid.

(D) Order to be Served. The order confirming plan shall be served pursuant to Bankruptcy Rule 3017(f) and Local Rule 2002-1(C)(11).

Rule 3022-1. Final Decree in Chapter 11 Cases.

(A) Deadline for Filing Final Report and Motion for Entry of Final Decree. Unless otherwise provided in the confirmation order, the proponent of the plan shall file the Local Form "Final Report and Motion for Entry of Final Decree", in a non-individual chapter 11 case, not later than 60 days after the order confirming the plan becomes final, and in an individual chapter 11 case, upon completion of all payments under the confirmed plan, or if applicable, upon the filing of a motion by an individual debtor seeking entry of a discharge prior to completion of payments under the plan under 11 U.S.C. §1141(d)(5).

(B) Required Local Form Statement in Individual Cases. In an individual chapter 11 case, not later than 60 days after completion of all payments under the confirmed plan, or if applicable, upon the filing of a motion seeking entry of a discharge prior to completion of payments under the plan under 11 U.S.C. §1141(d)(5), the debtor shall also file the Local Form "Notice of Deadline to Object to Debtor's Statement Re: 11 U.S.C. §522(q)(1) Applicability, Payment of Domestic Support Obligations, and [For Chapter 11 Cases Only] Applicability of Financial Management Course and Statement Regarding Eligibility to Receive a Discharge". This statement shall be served on negative notice on all parties of record. Any interested party who fails to file and serve a written objection to the statement within 30 days shall be deemed to have consented to entry of the final decree and discharge of debtor. A certificate of service shall be filed as provided by Local Rule 2002-1(F).

Rule 3070-1. Chapter 13 Payments.**(A) Commencement of Payments.**

- (1) Deadline to Commence.** Payments to the chapter 13 trustee pursuant to the proposed plan, as may be amended, shall commence not later than 30 days after filing the petition. If the case was converted to a chapter 13 case, payments shall commence not later than 30 days after entry of the conversion order. Payments shall be made directly to the trustee in the manner prescribed by the trustee.
- (2) Scope of Payments.**
 - (a)** Payments of personal property leases governed by 11 U.S.C. §1326(a)(1)(B), shall only be made directly by the debtor to the lessor if the debtor's plan so provides or if no plan provision addresses payment of the debtor's lease obligation. If the plan provides for payment of the lease obligation by the trustee, the debtor shall make the pre-confirmation lease payments to the chapter 13 trustee in accordance with the filed chapter 13 plan.
 - (b)** Pre-confirmation adequate protection payments governed by 11 U.S.C. §1326(a)(1)(C), shall only be made directly by the debtor to the secured creditor if the debtor's plan so provides or if no plan provision addresses payment of the secured claim. If the plan provides for payment of the secured claim by the trustee, the debtor shall make the pre-confirmation payments to the chapter 13 trustee in accordance with the filed chapter 13 plan.
- (3) Pre-confirmation Payments to be Held by Trustee.** Unless otherwise ordered by the court, to facilitate the administration of chapter 13 cases, all pre-confirmation payments shall be held by the chapter 13 trustee pending confirmation, conversion or dismissal of the case and where applicable, Local Rules 1017-2(F) and 1019-1(D) shall apply.

(B) Post Confirmation Payment Changes or Charges.

- (1) Applicability of Bankruptcy Rule 3002.1 to Additional Types of Claims Related to Real Property.** The provisions of Bankruptcy Rule 3002.1 shall also apply to claims that are:
 - (a)** secured by a security interest on real property of the debtor other than the debtor's principal residence (including without limitation claims of condominium associations and homeowner's associations); and

- (b) provided for under §1322(b)(5) of the Code in the debtor’s plan.
- (2) Bankruptcy Rule 3002.1 applies only “in a chapter 13 case to claims that are (1) secured by a security interest in the debtor’s principal residence, and (2) provided for under § 1322(b)(5) of the Code in the debtor’s plan.” The Advisory Committee Note to Bankruptcy Rule 3002.1 states that “[i]t applies regardless of whether the trustee or the debtor is the disbursing agent for postpetition mortgage payments.” Bankruptcy Rule 3002.1 does not apply to, and creditors shall not file notices of payment change with respect to, any claim (a) secured by a security interest in real property of the debtor that is not the debtor’s principal residence OR (b) that is not provided for under § 1322(b)(5) of the Code in the debtor’s plan. Without limiting the foregoing, if treatment of a claim secured by a security interest in the debtor’s principal residence is not described in the debtor’s plan other than to state that payment will be made by the debtor outside the plan, or if the treatment provided in the plan is not under § 1322(b)(5) of the Code, Bankruptcy Rule 3002.1 does not apply and the creditor shall not file notices of payment with respect to such claim. The purpose of this provision is to eliminate the filing of unnecessary notices of payment change that result in needless incurrence of legal expenses by chapter 13 debtors to respond to such notices and necessitate unnecessary hearings before this court.
- (3) With respect to claims in connection with which creditors are directed not to file notices of payment change under subsection (B)(2) of this rule, the holder of the claim may send notices of payment change and escrow notices directly to the debtor without violating the automatic stay.
- (4) Upon motion by the debtor, the court will consider awarding sanctions against a creditor that files a notice of payment change not required under Bankruptcy Rule 3002.1 and that is expressly deemed unnecessary under this rule.
- (5) **Modifications to Official Bankruptcy Form “Notice of Mortgage Payment Change” Required.** When a notice of payment change is filed addressing a claim covered under subdivision (B)(1) of this Rule, the Official Bankruptcy Form “Notice of Mortgage Payment Change” shall be modified accordingly to reflect the actual type of claim for which the notice is being filed.
- (C) **Dismissal of Case for Failure to Timely Remit Payments.**
- (1) **Dismissal at the Meeting of Creditors.** If, at the meeting of creditors, the debtor is not current in plan payments under the plan as originally filed, the chapter 13 trustee is authorized by the court to docket in the case a virtual paperless entry titled “Trustee’s Request for Entry of Order Dismissing Case” and the case may be dismissed without further notice or hearing. Dismissal shall be with prejudice

to the debtor filing any bankruptcy case for a period of 180 days from entry of the order of dismissal.

(2) Dismissal Subsequent to Confirmation.

- (a) Notice of Delinquency.** The trustee may, upon the debtor's failure to timely make any payment, serve a notice of delinquency upon the debtor and the debtor's attorney, along with a copy of this rule.
- (b) Deadline to Cure Delinquency.** The debtor shall have 45 days from the date of the notice of delinquency to make all payments due under the plan, including any payments that become due within the 45-day period. If applicable, the debtor may, within 14 days of the notice of delinquency, file a motion to modify the confirmed plan.
- (c) Failure to Cure.** If the debtor is not current in plan payments on the 45th day after the date of the notice of delinquency, the trustee shall file and serve a report of noncompliance and the case shall be dismissed without further notice or hearing, with prejudice to the debtors filing any bankruptcy proceeding for a period of 180 days from entry of the order of dismissal.

(D) Wage Deduction Orders - Deadline for Submission of Local Form. A debtor who is not self-employed must submit a proposed Local Form "Agreed Order to Employer to Deduct and Remit and for Related Matters" to the court prior to the meeting of creditors. The proposed order must be signed by the debtor and debtor's attorney. If the proposed order is submitted to the court in electronic format, the order must contain the actual imaged signature of the debtor. The attorney for the debtor, or clerk of court, if the debtor is pro se, shall serve the order on the employer. If a wage deduction order has not been entered the court will conduct an evidentiary hearing to determine feasibility at the confirmation hearing. The court will not confirm a case without a wage deduction order in place, absent extenuating circumstances.

(E) Determination of Final Cure Payment.

- (1) Applicability of Bankruptcy Rule 3002.1.** The provisions of Bankruptcy Rule 3002.1 shall also apply to any chapter 13 case where the debtor's plan provided for the curing of defaults on a claim secured by a security interest on real property other than the debtor's principal residence.
- (5) Local Form Order Required.** A proposed order confirming a claim secured by a security interest in real property is current, submitted by a party to the court under Bankruptcy Rule 3002.1 or this local rule, shall substantially conform to this court's Local Form "Order Determining Debtor has Cured Default and Paid All Required Postpetition Amounts".

☞ 2011 Amendment: Local Rule 3070-1 includes Interim Local Rule 3070-1(B) and (E), adopted by Administrative Order 11-03, effective December 1, 2011.

☞ 2012 Amendment: Local Rule 3070-1 includes Amended Interim Local Rule 3070-1(B)(2), (B)(3) and (B)(4), adopted by Administrative Order 12-04, effective December 3, 2012.

Rule 4001-1. Relief From Automatic Stay.

(A) Notice Requirements. In cases other than chapter 11 cases, notice of any motion seeking relief from the automatic stay, pursuant to 11 U.S.C. §362(d), shall be sufficient if served on the debtor, the debtor’s attorney, the trustee, and any person known to the moving party to claim a legal or equitable interest in any property which may be the subject of the motion. In a chapter 11 case, when applicable, service must be in accordance with Local Rule 2002-1(H), otherwise, the notice must be served on the debtor, the debtor’s attorney, the trustee, if any, the U.S. Trustee, the members of the creditors’ committee or the committee’s attorney and any other person known to the moving party to claim a legal or equitable interest in any property which may be the subject of the motion; however, if no creditors’ committee has been formed then the notice may be served on the creditors holding the 7 largest unsecured claims according to the debtor’s list of 20 largest creditors filed in the case.

(B) Contents of Motion. Motions for relief from the automatic stay must comply with this court’s “Guidelines for Motions for Relief From the Automatic Stay”.

(C) Requests for Relief On Negative Notice. Creditors in chapter 7, 11, or 12 cases, in which the debtor is represented by an attorney, may seek relief from stay on negative notice if the motion meets the requirements of the Guidelines referred to in subdivision (B) above, is served in accordance with subdivision (A) above, and includes above the preamble and below the title of the motion the following bulletin in print either highlighted or bold so as to make it more prominent than the remainder of the text:

Any interested party who fails to file and serve a written response to this motion within 14 days after the date of service stated in this motion shall, pursuant to Local Rule 4001-1(C), be deemed to have consented to the entry of an order granting the relief requested in the motion.

When this bulletin is included in the motion, no hearing will be scheduled unless a response is filed. Notwithstanding Bankruptcy Rule 9006(f), the failure of parties, properly served, to file a response within 14 days after service of the motion shall be deemed a consent to the granting of the requested relief. After the time to respond has expired, the moving party shall either (a) promptly file the Local Form “Certificate of No Response or Settlement” accompanied by a proposed order pursuant to Local Rule 5005-1(G), or (b) promptly file the Local Form

“Certificate of Contested Matter”. If a certificate of contested matter is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The “Notice of Hearing” shall be served by movant in accordance with the procedures contained in Local Rule 9073-1(B). The option provided in this paragraph is not intended to limit the court’s ability to grant or deny relief sooner than 14 days after service of the motion, or the court’s discretion to grant relief without a hearing either by consent of the parties or on verified motions which allege pursuant to 11 U.S.C. §362(f), that immediate irreparable harm will result from the failure to grant emergency relief without a hearing. A party filing a motion for relief from stay pursuant to this subdivision is deemed to have consented to voluntarily extending, to a date 60 days after the filing of a Local Form “Certificate of Contested Matter” by the party filing the motion for relief from stay, the provision of 11 U.S.C. §362(e), which provides for termination of the automatic stay within 60 days absent an order of the court continuing the stay.

☞2011 Amendment: Subdivision (C) of this rule is amended to provide that the deadline for filing a response to a request for relief on negative notice is 14 days after service of the motion and that Bankruptcy Rule 9006(f) does not apply to this deadline.

(D) Contested Motions; Response. A response which objects to the granting of the requested relief shall identify the motion, the movant’s attorney, and the motion’s service date, and shall set forth a short and plain statement of the facts countervailing the motion, including:

- (1) a statement of indebtedness, if the amount of debt is in dispute;
- (2) a specific statement of any objection to the authenticity, accuracy or completeness of the moving party’s exhibits; and
- (3) a statement of how the responding party proposes to adequately protect the moving party’s security interest, if it is the debtor who objected and adequate protection may be necessary; however, the objection of a chapter 7 trustee prior to the §341 meeting need state only that the §341 meeting has not yet been held and that the trustee lacks the necessary information to adequately respond further.

The response must be served on the movant’s attorney and on the same parties on whom the motion was served. Notice, pursuant to Local Rule 9073-1(B), shall be served on the same parties on whom the motion was served.

(E) Hearing. An evidentiary hearing scheduled on a motion for relief from the automatic stay will be a final evidentiary hearing unless the court otherwise notifies the parties in advance. If the court designates the initial hearing as a non-evidentiary hearing, the hearing

shall be restricted to the pleadings, affidavits and papers of record and to the arguments of attorneys.

(F) Cooperation of Parties in Preparation for Hearing. At least two business days prior to an evidentiary hearing, the parties or their attorneys must meet in an effort to identify those specific issues of fact or law genuinely in dispute, to exchange copies of appraisals and other exhibits and the names and addresses of witnesses the parties intend to offer at the hearing, and to discuss the possibilities of settlement. At the commencement of the hearing, the parties shall present an exhibit register in accordance with Local Rule 9070-1, and shall announce any stipulations of fact or law.

(G) Discovery. A party may take deposition testimony of any party or witness and may request the production of documents or things and inspection of land, upon actual delivery of at least 14 days' notice, and the minimum time requirements of Bankruptcy Rules 7030 and 7034 shall not apply. The parties shall make their appraisers or other experts and fact witnesses, if any, available for deposition, without the need for subpoena, at least two business days before an evidentiary hearing, and the parties are expected to cooperate in exchanging information and documents without the need for formal discovery procedures. In extraordinary circumstances the court, upon motion of a party but without notice or hearing, may authorize the use of interrogatories or other discovery procedures, and may shorten the notice requirements of any applicable rule.

(H) Continuances. Continuances are governed by Local Rule 5071-1. A party seeking relief from the automatic stay who moves for, or consents to, continuance of the hearing waives the right to enforce the 30 or 60 day rules contained in 11 U.S.C. §362(e), and the 30 or 60 day hearing requirements shall be deemed extended until the court's ruling at the rescheduled hearing.

[Comment: See also 28 U.S.C. §1930 (clerk's fee required for motions for stay relief), Bankruptcy Rule 9014 (contested matters governed by general rules of discovery) and Local Rules 5071-1 (continuances), 7026-1 (discovery), and the court's "Guidelines for Preparing, Submitting, and Serving Orders".]

Rule 4001-2. Cash Collateral. A motion seeking authority to use cash collateral pursuant to 11 U.S.C. §363, shall comply with Bankruptcy Rule 4001(b) or (d), Local Rules 9013-1(F) and (G), and the court's "Guidelines for Motions Seeking Authority to Use Cash Collateral and Motions Seeking Approval of Postpetition Financing".

Rule 4001-3. Obtaining Credit. A motion seeking approval of postpetition financing pursuant to 11 U.S.C. §364, shall comply with Bankruptcy Rule 4001(c) and (d), Local Rules 9013-1(F) and (H), and the court's "Guidelines for Motions Seeking Authority to Use Cash Collateral and Motions Seeking Approval of Postpetition Financing".

Rule 4002-1. Debtor's Duty to Provide Tax Returns to Trustee and Creditors. Copies of the debtor's tax returns under 11 U.S.C. §1116(1)(A), Bankruptcy Rule 4002(b)(3) and (4), shall be provided in accordance with Local Rule 5005-1(A)(2).

Rule 4003-1. Exemptions.

(A) Amendment of Claimed Exemptions; Modification of Deadline to Object to Claimed Exemptions. When amending the schedule of property claimed as exempt to add assets not previously listed, the debtor shall serve a copy of the schedule on the trustee, and shall serve notice on all creditors and attorneys of record, or if applicable, those parties required to be served pursuant to Local Rule 2002-1(H), of the filing of the amendment and the extended deadline described in Bankruptcy Rule 4003(b) and subdivision (B) of this rule, and file a certificate of service in accordance with Local Rule 2002-1(F).

(B) Deadline to Object in Converted Cases. Except as provided in Bankruptcy Rule 1019(2)(B), upon conversion of an individual case, a new deadline to object to property claimed as exempt shall be 30 days after the conclusion of the post-conversion meeting of creditors or within 30 days after any amendment to the list or supplemental schedule is filed, whichever is later.

[Comment: See also Bankruptcy Rule 1009 and Local Rules 1009-1 (amendments to schedules) and 2002-1(F) (Certificate of service required).]

☞2011 Amendment: Subdivision (B) is amended to incorporate provisions adopted by this court's Administrative Order 10-5 which were necessitated by December 1, 2010 amendments to Bankruptcy Rule 1019.

Rule 4003-2. Avoidance of Liens on Exempt Property. A debtor's motion to avoid a lien on exempt property under 11 U.S.C. §522(f) and Bankruptcy Rule 4003(d), shall provide a full legal description of the property, and shall include as an exhibit a copy of the security agreement, judgment or other judicial paper giving rise to the lien and showing recordation information. The motion shall be served on the affected parties in accordance with Bankruptcy Rule 7004, and pursuant to either Local Rule 9013-1(D)(3)(f) or Local Rule 9073-1, and a certificate of service shall be filed in accordance with Local Rule 2002-1(F).

[Comment: See also Local Rule 5010-1 (reopening case to avoid a judicial lien).]

Rule 4004-1. [Note: 4004-1 is a reserved rule number.]

Rule 4004-2. Objections to Discharge.

(A) Modification of Deadline for Objections. The deadlines set pursuant to Bankruptcy Rule 4004(a) for filing a complaint or motion objecting to discharge under §727, and for filing a motion objecting to discharge under §1328(f), are modified in the following circumstances:

- (1) **Meeting of Creditors Untimely Noticed.** If service of the §341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a) and Local Rule 2002-1(C)(1), and as a result of this failure to provide notice the §341 meeting must be rescheduled before another notice can be served, the deadline for objecting to discharge under §§ 727(a) or 1328(f) shall be 60 days after the rescheduled date of the §341 meeting.
- (2) **Case Dismissed and Reinstated.** If a case is dismissed prior to the expiration of the deadline for objecting to discharge and subsequently reinstated:
 - (a) in a case dismissed before the §341 meeting is held, the new deadline for objecting to discharge under §§ 727 or 1328(f) shall be 60 days after the rescheduled §341 meeting; or
 - (b) in a case dismissed after the §341 meeting is held, the new deadline for objecting to discharge under §§ 727 or 1328(f) shall be 60 days from entry of the order reinstating the case.
- (3) **Notice of New Deadline.** If applicable, the clerk shall provide notice of any new deadlines established under this rule.

☞2011 Amendment: Subdivision (A) is amended to incorporate provisions adopted by this court's Administrative Order 10-5 which were necessitated by December 1, 2010 amendments to Bankruptcy Rules 4004 and 7001. Subdivision (A)(2)(b) is further amended to remove reference to "order vacating the order of dismissal" and replace it with "order reinstating the case".

(B) Deadline for Objections in Chapter 11 Cases. Complaints objecting to the debtor's discharge under §1141 must be filed not later than the first date set for the hearing on confirmation.

Rule 4004-3. Discharge in General.

(A) The individual debtor shall be discharged upon determination that the debtor is eligible to receive a discharge under the Bankruptcy Code and Bankruptcy Rules (including without limitation the provisions of 11 U.S.C. §§707, 727, 1141, 1228, and 1328, and Bankruptcy Rule 4004(c), as applicable), and subject to the following requirements:

- (1) in a chapter 12 case, the trustee has filed a final report certifying that all payments have been made pursuant to the confirmed plan;
- (2) in a chapter 13 case, unless the debtor is seeking a hardship discharge under 11 U.S.C. §1328(b), the trustee has filed a "Notice of Completion of Plan Payments";

- (3) in a chapter 13 case, the debtor has filed, as appropriate, either the Local Form “Debtor’s Certificate of Compliance, Motion for Issuance of Discharge and Notice of Deadline to Object” or the Local Form “Debtor’s Certificate of Compliance, Motion for Issuance of Discharge Before Completion of Plan Payments, and Notice of Deadline to Object,” as required under Local Rule 2002-1(C)(12) has served a copy on all parties of record providing a 21 day objection deadline and, if any objections were filed, they have been resolved to permit issuance of a discharge; and
- (4) in an individual chapter 11 or 12 case the debtor has submitted the required Local Form “Notice of Deadline to Object to Debtor’s Statement Re: 11 U.S.C. §522(q)(1) Applicability, Payment of Domestic Support Obligations, and [For Chapter 11 Cases Only] Applicability of Financial Management Course and Statement Regarding Eligibility to Receive a Discharge” and a copy was served on all parties of record as required under Local Rule 2002-1(C)(13), and for chapter 11 cases Local Rule 3022- 1(B), and for chapter 12 cases Local Rule 2082-1.

☞ 2011 Amendment: Subdivisions (A) (2) and (3) are amended to reflect the procedures for obtaining chapter 13 discharges prior to completion of all payments under the plan and to reference the related new local form.

☞ 2011 Amendment: Local Rule 4004-3 includes Interim Local Rule 4004-3(A)(3), adopted by Administrative Order 11-03, effective December 1, 2011.

(B) Notice of Discharge. The clerk shall serve the order of discharge in all chapter 7, 12 and 13 cases subject to the provisions of Local Rule 2002-1(C)(4). In a chapter 11 non-individual case, the order confirming a plan shall contain notice of the grant or denial of the discharge. In a chapter 11 individual case, the final decree shall contain notice of the grant or denial of the discharge.

Rule 4006-1. Notice of No Discharge or Waiver or Revocation of Discharge. Orders denying, revoking or waiving discharge shall be served as provided in Rule 2002-1(C)(4). The clerk may close an individual chapter 7, 12, or 13 case where no discharge was issued due to debtor’s failure to comply with the requirements under Bankruptcy Rule 1007(b)(7) or Local Rule 4004-3(A)(3), or (4), and serve notice as provided in Local Rule 2002-1(C)(4).

[Comment: See also Local Rule 5010-1(H).]

Rule 4007-1. Modification of Deadline for Objecting to Dischargeability of a Debt. The deadline set pursuant to Bankruptcy Rule 4007(c), for filing a complaint objecting to dischargeability of a debt is modified in the following circumstances:

(A) Meeting of Creditors Untimely Noticed. If service of the §341 or post-conversion meeting notice is not timely provided pursuant to Bankruptcy Rule 2002(a), and as a result of this failure to provide notice the §341 meeting must be rescheduled before another notice can be served, the deadline for filing objections to dischargeability of a debt shall be 60 days after the rescheduled date of the §341 meeting.

(B) Case Dismissed and Reinstated. If a case is dismissed prior to the expiration of the deadline for objecting to dischargeability and subsequently reinstated:

- (1)** in a case dismissed before the §341 meeting is held, the new deadline for filing objections to dischargeability shall be 60 days after the rescheduled §341 meeting, and the clerk shall serve a new §341 notice which notifies all creditors of the deadline; or
- (2)** in a case dismissed after the §341 meeting is held, the new deadline for filing objections to dischargeability shall be 60 days from execution of the order reinstating the case.

☞2011 Amendment: Subdivision (B)(2) is amended to remove reference to “order vacating the order of dismissal” and replace it with “order reinstating the case”.

(C) Notice of New Deadline. If applicable, the clerk shall provide notice of any new deadlines established under this rule.

[Comment: See Local Rule 5010-1(B) (Section 523(c) adversary proceeding required upon reopening case to add omitted creditor).]

Rule 4008-1. Reaffirmation.

(A) Official Bankruptcy Forms Required; No Notice, Hearing or Order Required to Confirm Enforceability. Reaffirmation agreements shall be filed utilizing the Administrative Office of the U.S. Courts Director’s Procedural Forms for reaffirmation agreements. No notice, hearing or order shall be necessary to confirm the enforceability of a reaffirmation agreement filed with the court that is signed by all parties to the agreement, that conforms to the requirements of 11 U.S.C. §§524(c)(1), (2), and (4), and that is accompanied by a declaration or affidavit of the attorney who represented the debtor during the negotiation of the agreement pursuant to 11 U.S.C. §524(c)(3). Notwithstanding the foregoing, the court may set a hearing on a reaffirmation agreement as permitted by 11 U.S.C. §524 and applicable law.

(B) Debtor Must Appear at Reaffirmation Hearing. If the court sets a hearing to consider a reaffirmation agreement, the debtor must appear at the hearing. The hearing will be evidentiary.

(C) Reaffirmation Agreement Made Subsequent to Entry of Discharge. A reaffirmation agreement made by a debtor subsequent to entry of the discharge shall be declared invalid by the court.

(D) Duties of Debtor’s Counsel. Unless the attorney has withdrawn as attorney for the debtor pursuant to Local Rule 2091-1, an attorney who files a petition on behalf of a debtor must represent the debtor during the negotiation and filing of any reaffirmation agreements, and appear at any hearings on reaffirmation agreements.

[Comment: See also Local Rule 2090-1(C) and (D).]

<p>☞2011 Amendment: This rule was rewritten to incorporate stylistic changes and to include new provisions in subdivision (D) addressing the duties of an attorney for debtor regarding reaffirmation agreements and hearings thereon.</p>
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Rule 5001-1. Court Administration - Acting Chief Judge; Alternate Judge.

(A) Acting Chief Judge. If the chief judge is absent from the district or is unable to perform required duties, such duties shall be performed by the judge in active service, present in the district and willing to act, who is most senior on the date of the judge’s commission, other than a recalled judge. Such judge is designated as the acting chief judge on such occasions.

(B) Alternate Judge. If a judge is unable to perform required duties, such duties may, with the consent of both judges, be performed by the judge designated by the chief judge as the “alternate judge” for that judge.

Rule 5001-2. Clerk’s Office Locations. Access to Clerk’s Office for Emergency or Time Sensitive Filings.

(A) Clerk’s Office Locations. The main office of the clerk is located in Miami. Divisional offices are located in Ft. Lauderdale and West Palm Beach.

(B) Access to Clerk’s Office for Emergency or Time Sensitive Filings. Any party seeking to conventionally file an emergency or otherwise time sensitive paper during a time period when the clerk’s office is not open to the public, shall, in advance, contact the clerk or chief deputy clerk to request after hours, holiday or weekend filing accommodations.

Rule 5003-1. Records Kept by the Clerk. Certified Copies of Court Records.

(A) Records Maintained Under Case Management/Electronic Case Files (CM/ECF).

- (1)** The clerk shall use the CM/ECF system to maintain official records for all cases, adversary proceedings and miscellaneous proceedings pending, filed or reopened in this court on or after October 17, 2005.
- (2)** The clerk shall maintain, retain or dispose documents filed electronically and conventionally in this court in accordance with the records retention and disposal authorities applicable to bankruptcy courts operating under the CM/ECF system. In accordance with these authorities, and absent any other directive of the court, conventionally filed original documents may be immediately disposed of by the clerk upon conversion by the clerk to electronic format after verifying that the scanned image reflects the original filed document. Registered users of CM/ECF shall retain originals of electronically filed documents in accordance with Local Rule 5005-4(D).
- (3)** Electronic case public records may be viewed free of charge at the public computer terminals in each divisional clerk's office. Copy and certification fees shall apply.

(B) Records Maintained by the Clerk Prior to Implementation of CM/ECF System.

Documents filed prior to October 17, 2005, will not be converted to electronic imaged format unless ordered by the court and shall be maintained and archived in accordance with the Administrative Office approved Guidelines in effect for those documents. Certain case information, including dockets for cases filed prior to October 17, 2005, shall be accessible via the CM/ECF case query function.

(C) Certified Copies of Court Records. Certified or exemplified copies of documents filed conventionally or electronically are available only from the clerk's office. The fees for searches, copies and certifications are provided under the Judicial Conference Bankruptcy Court Miscellaneous Fee Schedule. Fee information is posted on the court's website.

[Comment: See also Local Rule 2002-1(D) (service databases to be maintained by clerk) and "Clerk's Instructions for Electronic Public Access Services". See also, retention of originals electronically filed by attorneys Local Rule 5005-4(C).]

(D) Sealed Records. Records or other court papers shall be sealed only upon order of the court directing the clerk as to the length of time during which the records shall remain sealed.

- (1) Local Form Cover Sheet Required:** The Local Form "Cover Sheet to Accompany Items Submitted for Sealing or In Camera Review" shall accompany:

- (a) a sealed motion, filed either in advance of filing a sealed document or accompanied by the sealed document (if both the motion and the document are filed together);
 - (b) an unsealed motion and a sealed document; or
 - (c) a sealed document being filed pursuant to a previously entered order allowing the document to be filed as sealed. If a sealed document is being filed pursuant to a previously entered court order, a notice of filing sealed item and a copy of the order directing sealing (unless order is sealed) must accompany the cover sheet and sealed documents.
- (2) **Motion Required.** The Local Form “Cover Sheet to Accompany Items Submitted for Sealing or In Camera Review”, is to be filed in addition to, not in place of, a motion to seal or grant in camera inspection. If the movant requests that the documents remain under seal after closing, the motion should include this request.
- (3) **Disposition of Sealed Documents Upon Case Closing.** Unless otherwise specifically ordered, the sealed papers may be unsealed upon the administrative closing of the case.
- (E) **Exhibits.** Exhibits shall be maintained by the clerk only as provided by Local Rule 9070-1.
- (F) **Form Used for Submission of Social Security or Other Individual Taxpayer Identification Numbers.** The Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))” as required by the Bankruptcy Rules or this court, shall be retained by the clerk as a non-public record.

Rule 5003-2. Court Papers - Removal Of. Inserting, removing, deleting, tampering with, defacing, or making any mark, entry or correction—by interlineation or otherwise—on any file or other record of the court, including electronic records, is prohibited. No records may be removed from the clerk’s office except by court order or authorization by the clerk which shall specify the time within which the records shall be returned, and the person taking possession of court records shall be required to execute a receipt which lists the papers being removed.

Rule 5005-1. Filing and Transmittal of Papers.

(A) General Requirements.

- (1) **Format.** All documents must comply with the format requirements of the Bankruptcy Code, the Bankruptcy Rules and these rules. Documents filed or submitted in cases or proceedings shall be either filed electronically in PDF by a

registered user, or filed in conventional paper format by non-registered users and then converted to PDF by the clerk. Any exceptions to the requirement that a document be electronically filed by a registered user shall be set forth in the Clerk's Filing Instructions or in the court's "Guidelines for Preparing, Submitting and Serving Orders".

- (2) Compliance with Federal Judiciary Privacy Policy.** All papers submitted for filing must comply with the federal judiciary privacy policy and the Bankruptcy Rules which address the extent to which personal information will be required to be submitted or included in the public records of the court.
- (a) Papers Filed with the Court.** Filers of papers shall be responsible for redacting Social Security or other individual taxpayer identification numbers and other personal identifiers such as dates of birth, financial account numbers, and names of minor children from documents filed with the court. Unless otherwise ordered by the court, any documents which include personal identifiers should be redacted to exclude the personal information or, if such redaction is not practical, the party may seek to submit them as sealed records pursuant to Local Rule 5003-1(D); however, the court may still require submission of a redacted copy for inclusion in the public records. Redaction guidelines for personal information not addressed by the Bankruptcy Rules or forms include:
- (i)** Social Security or other individual taxpayer identification numbers. If an individual's social security or other individual taxpayer identification number must be included in a pleading, only the last four digits of that number should be used.
 - (ii)** Names of minor children. If the involvement of a minor child must be mentioned, only the initials of that child should be used. On Schedule I of Official Bankruptcy Form 6, list relationship and age of the debtor's dependents (i.e., son, age 6).
 - (iii)** Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used. On Schedule I of Official Bankruptcy Form 6, list the age of each of the debtor's dependents.
 - (iv)** Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used. On Schedules D, E, and F of Official Bankruptcy Form 6, debtors, if they so choose, may include their full account numbers to assist the trustee and creditors.

- (b) **Electronic Availability of Electronic Transcripts and Redaction of Transcripts Filed with the Court.** Transcripts of court proceedings shall only be filed with the court by the official court reporter. Filed transcripts shall be made available, and shall, where required to comply with privacy requirements, be redacted in accordance with this court's guidelines setting forth the policies on electronic availability of transcripts of court proceedings and redaction of transcripts filed with the court.
- (c) **Privacy and Redaction of Tax Returns Provided by Debtor Directly to Parties Under 11 U.S.C. §§521(e)(2)(A) or (f) or 11 U.S.C. §1116(1)(A).** Requests for copies of the debtor's tax information under 11 U.S.C. §521, or for tax returns submitted under 11 U.S.C. §1116(1), and docketed as a non-public "restricted" document, shall be in accordance with the Administrative Office of the United States Courts "Director's Interim Guidance Regarding Tax Information Under 11 U.S.C. §521" dated September 20, 2005, as amended or supplemented by any subsequent directives issued. This document will be posted on the court website.

[Comment: See also 11 U.S.C. §110 (bankruptcy petition preparers must continue to submit their complete social security or other individual taxpayer identification numbers, where required, on papers submitted to the court), Bankruptcy Rules 1005 (only last four digits of social security or other individual taxpayer identification numbers included in caption of petition), 1007(f) (verified statement of social security or other individual taxpayer identification numbers must be submitted) and 9037 (Privacy Protection for Filings Made With the Court).]

- (3) **Ex Parte Motions to Redact Personal Information.** A party seeking to redact personal information as set forth in subdivision (A)(2) of this Rule may file an ex parte motion, accompanied by the required filing fee, requesting an order directing the clerk to restrict the unredacted document from public view. If the motion is being filed in a closed case, a motion to reopen case is not required if the sole purpose of the reopening is to file a motion to redact personal information. Simultaneously with the filing of the ex parte motion, the movant shall file the amended redacted document and submit a proposed order granting the motion. The clerk may restrict public access to the document containing personal identifiers pending entry of an order granting the ex parte motion. Unless the motion is being filed under seal, the motion should not repeat the actual personal information for which redaction is sought. A copy of the motion and entered order shall be served by the movant on the debtor, any individual whose personal identifiers have been exposed, the case trustee (if any), and the U.S. trustee. The original filed document shall remain restricted to preserve the full record.

[Comment: See Local Rule 5005-4(E) (Official Case Record) and Local Rule 5005-1(G)(1)(a) (submittal of proposed orders). See also Bankruptcy Rule 9037 (Privacy Protection for Filings Made with the Court).]

☞2011 Amendment: New subdivision (A)(3) of this rule sets forth the procedures for redacting personal information from papers already filed with the court which contain information that should have been redacted from public access.

☞2014 Amendment: Local Rule 5005-1 includes Interim Local Rule 5005-1(A)(3), adopted by Administrative Order 14-06, effective December 1, 2014.

(B) Place of Filing. Unless otherwise directed by the court, all papers to be filed or received conventionally by the court shall be delivered to the clerk's office, and not to a judge's chambers.

[Comment: See also Local Rule 5005-1(F)(2) (emergency submittal).]

(C) Deficient Petitions and Papers.

(1) Petitions. Petitions presented for filing which do not conform to the official form, are filed without an attorney (non-individual debtors only), do not indicate the last four digits of the social security number or other individual taxpayer identification number and/or an identification number on the petition, are not accompanied by the Official Bankruptcy Form "Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))" (individual debtors only), are not accompanied by a creditor matrix, list of 20 largest unsecured creditors (chapter 11 cases), are not accompanied by a corporate ownership statement as required by Bankruptcy Rule 1007(a)(1) and Local Rule 1002-1(A)(2), or other document required at the time of filing shall be accepted for filing as deficient. The clerk shall, as provided by subdivision (C)(3) of this rule, serve a notice of deficiency giving the debtor a deadline to correct the deficiency to avoid dismissal of the case without further notice.

(2) Other Papers. Any other paper which is otherwise presented in improper form may, depending upon the nature of the deficiency, be either docketed as deficient and, without notice or hearing, be subject to entry of an order striking the paper, or, if filed in a closed case, returned without filing.

2011 Amendment: Amended to reflect that clerk's refusal provision of section (C)(1) has been removed and relocated to Rule 1002-1(B)(1)(c).

(3) Clerk's Deficiency Notices.

- (a) Authority of Clerk to Prepare and Serve Deficiency Notices.** The clerk is authorized to prepare notices which establish deadlines for correction of filing deficiencies for service on parties filing papers not prepared or submitted in compliance with the administrative requirements contained in the Bankruptcy Code, Bankruptcy Rules, Local Rules, Court Administrative Orders or other procedures of this court.
- (b) Content of Deficiency Notices.** A deficiency notice shall indicate the nature of the deficiencies, establish a deadline for correction of the deficiencies and set forth the consequences, including possible dismissal of the case without further notice, of failure to correct the stated deficiencies within the time indicated. Registered users may also receive notification via an electronic docket entry "Notice to Filer of Apparent Filing Deficiency" that a deficient or incorrect docket entry has been entered. An electronic deficiency notice may establish a deadline for corrective action to be taken or indicate that the error has been corrected by the clerk and no further action is required.
- (c) Deadline to Correct Deficiency.** The deadline established pursuant to this rule for any deficiencies with respect to schedules and statements required to be filed pursuant to Bankruptcy Rule 1007(b)(1), shall be the 14 day deadline from the date of filing the petition established by Bankruptcy Rule 1007(c), or as extended by the court. All other deadlines for correction of deficiencies pursuant to this rule shall be a date no less than seven days from the date of filing of the deficient paper. The actual deadline established by the clerk shall depend upon the nature of the deficiency to be corrected.
- (d) Clerk Corrected Deficiency(ies).** At the discretion of the clerk, certain electronically docketed entries will be corrected by the clerk (e.g., incorrect party filer, incorrect document linkage, etc.). The clerk will enter on docket an electronic entry "Notice to Filer of Apparent Filing Deficiency" which will indicate the item was corrected and that no further action is required by the registered user.

[Comment: See Local Rules 1002-1(B) (clerk authorized to refuse for filing certain voluntary petitions, 1006-1(A)(3) (refusal of installment application and petition by clerk), 5080-1 (fees required).]

(D) Papers Filed in Closed Cases. The clerk may return, without docketing, to the filing party any paper which is tendered for filing after the administrative closing of a case or

proceeding, except a motion to reopen or other paper specifically authorized by the order disposing of the case or proceeding. If the paper is filed electronically, the clerk will enter an electronic docket entry "Notice to Filer of Apparent Filing Deficiency" advising that no further action will be taken by the court.

(E) File Stamping of Copies. The clerk shall provide a filed-stamped copy of any conventionally filed paper to the filing party if an additional copy of the paper and an adequately sized, self-addressed stamped envelope is also supplied at the time of filing.

(F) Submission of Papers in Matters Already Set for Hearing.

(1) Deadline for Filing. Form of Response. Memoranda, affidavits and other papers intended for consideration at any hearing already set before the court, shall be filed and served so as to be received by the movant and the court not later than 4:30 p.m. on the second business day prior to the hearing, or the papers submitted may not be considered at the hearing. All responsive papers shall set forth any applicable defenses or objections in law or fact on which the respondent relies. All responsive papers shall be served in accordance with these local rules. This subdivision shall not apply to affidavits filed pursuant to Bankruptcy Rule 7056.

(2) Emergency Submittal. Memoranda, affidavits or other papers not filed prior to the deadline established in subdivision (1), but which the filing party deems necessary for the court's consideration at the scheduled hearing, may be considered at the hearing only if accompanied by the Local Form "Notice of Late Filing of Paper Pursuant to Local Rule 5005-1(F)(2)", noting the emergency nature of the filing or stating the exceptional circumstances for the untimely filing.

This provision does not apply to amended chapter 13 plans, schedules or statements filed prior to a scheduled confirmation hearing under the deadlines established by Local Rules 1009-1(D)(4) and 3015-2(A).

[Comment: See subdivision (B) (all papers to be delivered to clerk, not to judge).]

(3) Rule Not Applicable to Exhibits. This rule shall not be construed to modify Local Rule 9070-1, regarding the presentation of papers introduced as evidence in a trial or evidentiary hearing.

(G) Submittal and Service of Orders. Unless otherwise directed by the court, the "Guidelines for Preparing, Submitting, and Serving Orders" apply to matters before this court.

(1) Submittal of Proposed Orders. Unless otherwise directed by the court or by these rules:

- (a) Requests for relief which may be considered immediately by the court without opportunity for objection or hearing must be accompanied by a proposed order submitted in accordance with the “Guidelines for Preparing, Submitting, and Serving Orders”.

[Comment: See Local Rule 9013-1(C) (motions which may be considered without opportunity for hearing).]

- (b) The proponent and any opponent of any requested relief set for hearing on an emergency basis shall bring to the hearing a proposed order granting or denying the relief requested. Otherwise, the proposed order shall be uploaded in electronic format using the E-orders program in CM/ECF.
- (c) The prevailing party in a hearing or trial shall submit a proposed order, in the manner directed by the court, conforming to the decision of the court, not later than 4:30 p.m. on the seventh day following the hearing or trial. At the time of submittal, unless otherwise directed by the court the proponent must provide a copy of the proposed order and any covering memo to all adverse parties unless the order conforms strictly to a local form. If a party fails to timely submit a proposed order, the court may dismiss the underlying matter for failure to prosecute or take other action. If the court requests or permits submittal of competing proposed orders each party submitting a proposed order shall provide a copy of the proposed order and any covering memo to all adverse parties no later than two business days following the last date set for submission to the court.

[Comment: See also “Guidelines for Preparing, Submitting, and Serving Orders” and Local Rule 2002-1(A) (notice of proposed relief must be served on all directly affected parties) and Local Rule 9072-1 (form of orders).]

<p>☞2011 Amendment: Subdivision (G)(1)(c) of this rule has been amended to reduce the time from 14 to 7 days to submit orders after hearing and to add a new provision setting forth procedures for circulation of competing proposed orders.</p>

- (2) **Service of Entered Orders.** Where the clerk is required to serve orders under these rules, service will be accomplished via the BNC or, via the NEF (for registered users who have appeared in the case). Where the clerk is not required to serve orders under these rules, the clerk will provide, via the BNC or via the NEF (for registered users who have appeared in the case), a copy of the order for use by the designated serving party. It is the responsibility of the designated serving party to timely serve the order on all required parties and file

a certificate of service in accordance with Local Rule 2002-1(F). A proposed order must not indicate in the service section that the clerk will serve the order unless the clerk is required to provide service under these rules or directed by the court for a specific case or order.

[Comment: See also “Guidelines for Preparing, Submitting, and Serving Orders” and Local Rules 2002-1(C) (service of particular orders), 2002-1(H) “Master Service List” in chapter 11 cases, and 9076-1 (electronic service).]

Rule 5005-3. Filing Papers - Size of Papers. All conventionally filed papers, including attachments and exhibits, shall be 8 ½ x 11 inches (letter-sized); attachments and exhibits may be photo-reduced if necessary. This subdivision is not intended to preclude the introduction of oversized exhibits at a trial or evidentiary hearing.

[Comment: See also Local Rule 9070-1(B) (oversize exhibits at trial).]

Rule 5005-4. Electronic Filing.

(A) Authority. As permitted under Bankruptcy Rules 5005(a)(2), 7005, 9011, 9022, 9029 and 9036, this court, through these rules, court administrative orders, court guidelines, clerk’s instructions, local forms, and other clerk or court issued directives has established practices and procedures that permit filing, signing, verifying and serving documents electronically in this court.

(B) Access to Electronic Filing. Access to electronic filing in this district is required, encouraged or prohibited as follows:

- (1)** All trustees assigned to cases in this district and attorneys appearing in cases in this district under Local Rules 2090-1(A) and 2090-1(B)(3), except for government attorneys appearing for those limited purposes under Local Rule 2090-1(B)(1), and those attorneys excepted under either provision (B)(5) or (B)(6) below, must complete court approved CM/ECF training to become registered users and file documents using CM/ECF.
- (2)** Attorneys seeking to appear pro hac vice under Local Rule 2090-1(B)(2), must conventionally file the Local Form “Motion to Appear Pro Hac Vice” accompanied by the Local Form “Order Admitting Attorney Pro Hac Vice”. If the court grants a pro hac vice appearance, the attorney may apply to become a registered user in this district with full filing privileges. The court grants pro hac vice appearances on a case by case basis, and the court must grant the conventionally filed local form motion before that attorney may enter an electronic appearance in that case.

- (3) The court encourages attorneys appearing under Local Rule 2090-1(B)(1), and creditors without attorneys, to become registered users with limited creditor filing privileges (“limited filer”), permitting them to electronically file notices of appearance, changes of address, requests for service of notices, proofs of claim and other documents related to proofs of claim (not including responses to objections to claims), notices provided pursuant to Local Rule 3070-1(B), reaffirmation agreements, chapter 11 ballots, and other papers as authorized by the court. In addition, without the necessity of becoming a registered user, any claimant or the claimant’s agent may utilize the feature available on the court website for electronic submission of a proof of claim form, and the effect of such electronic submission shall be as provided under section (D) of this Rule.
- (4) Currently, pro se debtors and bankruptcy petition preparers are ineligible to use CM/ECF to file documents electronically.
- (5) Notwithstanding provision (B)(1) of this rule, any attorney who files ten or fewer documents in the court during a twelve month period shall be exempt from the requirement to become a registered user without further order of the court. The term “documents” shall not include petitions or adversary proceedings. An attorney who files a bankruptcy petition under chapter 7, 11, 12, 13 or 15, or an adversary proceeding, shall not be exempt from becoming a registered user.
- (6) Notwithstanding provision (B)(1) of this rule, attorneys appearing pro bono on behalf of debtors may seek waiver of the requirement to become a registered user if the attorney does not intend to file non pro bono bankruptcy petitions or other documents that might otherwise require the attorney to become a registered user. Such waiver may be sought by filing the petition accompanied by the Local Form “Ex Parte Motion to Excuse Compliance with Local Rule 5005-4” and the Local Form “Order Granting Ex Parte Motion to Excuse Compliance with Local Rule 5005-4”. Waiver of the electronic filing requirement will be on a case by case basis and shall only apply to the case in which the order granting waiver was entered. If applicable, the attorney shall also file the Local Form “Motion to Appear Pro Hac Vice” required under Local Rule 2090-1(B)(2). An attorney who is granted a waiver of the electronic filing requirement must otherwise comply with all Local Rules, including with respect to service of all papers and filing certificates of service.

(C) Retention of Original Signed Documents by Registered Users. Documents that are electronically filed and require original signatures other than that of the registered user must be maintained in paper form at least five years from the date of discharge of the debtor, dismissal of the case or final resolution of all appeals pending in the case, whichever is later. This retention neither affects nor replaces any other retention period required by other laws or

rules of procedure. The court may require the production of original documents for review by the court, a trustee, the U.S. Trustee, or any interested party.

(D) Effect of Electronically Filed Document. Any document signed and filed electronically, or filed conventionally and converted to an electronic document by the clerk, including a proof of claim filed electronically on this court’s website, shall constitute the filer’s approved signature and have the same force and effect as if the individual signed a paper copy of the document. Documents required to be verified or contain an unsworn declaration that are filed electronically shall be treated, for all purposes (both civil and criminal, including penalties for perjury), the same as though signed or subscribed.

☞ 2011 Amendment: Subdivision (B)(3) was amended to delete from the scope of limited filer privileges the filing of responses to objections to claims. Subdivisions (B)(3) and (D) of this rule are also amended to provide that the electronic signature provision shall apply to proofs of claim that are permitted to be filed electronically, including those permitted to be filed using any electronic filing program established for filers not filing as registered users under CM/ECF as indicated on the court’s website.

(E) Official Case Record. Regardless of whether an interested party files the document electronically or files it conventionally and the clerk converts it to an electronic document, the resulting electronic document and docket entry are deemed to be the court’s official record under Bankruptcy Rule 5003. Deletions, substitutions, or public access restrictions of electronic docket entries or PDF images are permitted only with leave of court. The clerk will review documents filed electronically and, when appropriate, will issue a notice of electronic filing deficiency under Local Rule 5005-1(C).

(F) Virtual Docket Entries. A virtual document consists entirely of the text contained in the docket entry and includes no text of any other document. The docket entry for a virtual document is fully effective despite the absence of a separate PDF document attached to the docket entry. Only trustees, the office of the U.S. Trustee, and court staff may enter a virtual docket entry.

(G) Electronic Filing Date and Technical Difficulties.

(1) Electronic Filing Date. Unless the court orders otherwise, a document filed in CM/ECF is deemed filed on the date in which the electronic transmission of the document is completed by midnight Eastern Standard time (or Eastern Daylight Saving, whichever is in place at the time the filing is effected). An electronic filing is confirmed as complete when the NEF is generated. The date and time reflected on the NEF as the “entered on” date is the date the court received the electronic filing. A document filed conventionally, then converted to electronic format by the clerk, is deemed filed on the date stamped by the clerk on the paper document, not the date it is converted to electronic format. The NEF for conventionally filed paper documents will reflect both the date the party filed

the paper document and the date the clerk entered the document on the electronic docket.

- (2) Technical Difficulties.** Parties are strongly encouraged to file documents electronically during normal business hours, in case a technical problem is encountered. If a party is unable to file electronically as a result of a technical difficulty with the court's system, the party must contact the clerk's office CM/ECF Help Desk at the telephone number posted on the court's website during normal business hours. If required to meet a filing deadline, a registered user is permitted to conventionally file a paper document only when the CM/ECF system is inaccessible or the registered user's computer system is inoperable. A registered user whose filing is made untimely as the result of a technical failure may seek, or the court on its own motion may grant, appropriate relief. No filing deadline shall be deemed to be extended due to technical problems except by court order. The clerk shall, whenever possible, post notice of any scheduled maintenance or technical problems which renders the system incapable of receiving electronic filings. Registered users are expected to monitor these postings and take any required action necessary to ensure the timely filing of documents.

Rule 5007-1. Interpreters; Services for Persons with Communications Disabilities. Except for proceedings initiated by the United States or for those persons with communications disabilities, the court shall not provide interpreters or other accommodation. There is no requirement that an interpreter provided by any party be federally certified. Persons with communications disabilities needing interpretation services may contact the clerk of court for information on obtaining such services.

[Comment: The U.S. Trustee's office will provide interpreter services for the meeting of creditors.]

Rule 5010-1. Reopening Cases.

(A) Fees. A motion to reopen a case must be accompanied by the filing fee in effect at that time, unless: (1) the case is being reopened to correct an administrative error or for actions affecting the discharge of the debtor, (2) the motion is being filed by a trustee and contains a request for deferral of payment of fee until assets are recovered from the estate, (3) the motion is seeking to shorten the "with prejudice" period provision of a prior order of dismissal, or (4) the motion is seeking to reopen a chapter 11 case involving an individual debtor whose case was previously closed after confirmation of a plan but prior to entry of discharge.

[Comment: See "Clerk's Summary of Fees".]

☞2011 Amendment: Subdivision (A) of this rule is amended to include two additional exceptions to the requirement that a filing fee must accompany a motion to reopen.

(B) Reopening to Add a Creditor. In a no-asset individual chapter 7 case, a motion to reopen a case to add an omitted creditor must be accompanied by a proposed order conforming to the Local Form “Order Reopening Case to Add Omitted Creditor”. No trustee shall be appointed. If the debtor fails to timely comply with the order, the case shall be re-closed without further notice. As provided in the order, if the debtor failed to file an adversary complaint, the reopening filing fee must be paid to the clerk of court.

[Comment: See also 11 U.S.C. §523(a) (dischargeability of debt) and Local Rule 9013-1(D)(3)(j) (matters for which negative notice can be used).]

(C) Reopening to Administer Additional Assets. In a chapter 7 case, a motion to reopen a case to administer additional assets may be filed without a reopening fee only if the trustee files a request for deferral of the fee pending recovery of assets. The filing fee shall be paid from any assets recovered.

(D) Motions to Reopen Chapter 13 Cases. A motion to reopen a chapter 13 case for the purposes of reinstating the case must comply with the provisions of Local Rule 9013-1(E).

(E) Reopening to Correct Social Security or other Individual Taxpayer Identification Number of Debtor. A motion to reopen a case to correct the social security or other individual taxpayer identification number of the debtor must be accompanied by the required reopening fee and must be filed in accordance with the provisions of Local Rule 1009-1(C).

(F) Reopening Case to Avoid a Judicial Lien. A motion to reopen case to avoid judicial lien must be accompanied by the fee required by subdivision (A) of this rule. The motion to reopen must comply with Local Rule 4003-2, and must be served in accordance with Bankruptcy Rule 7004, using the procedures set forth in either Local Rule 9013-1(D)(3)(f) or Local Rule 9073-1. Upon entry of an order on the motion to avoid judicial lien, the case shall be re-closed without further order of the court.

[Comment: See also 11 U.S.C. §350(b) (reopening case).]

(G) Reopening Case to File Official Bankruptcy Form “Debtor’s Certification of Completion of Instructional Course Concerning Financial Management”. If the certificate of completion of the required financial management course is not filed by the time the case is administratively ready for closing, the case shall be closed without entry of the discharge. If the debtor subsequently completes the requirement, the debtor may file the certificate accompanied by a motion to reopen case to request entry of discharge and payment of any required reopening fee as permitted under Local Rule 9013-1(C)(21).

(H) Reopening Case to File Required Local Forms for Issuance of Discharge. In chapter 7, 12 or 13 cases closed without entry of a discharge under Local Rule 4006-1, for failure to comply with certification and statement requirements under Bankruptcy Rule 1007(b)(7) or Local Rule 4004-3(A)(3), or (4), the debtor may seek to reopen a case for the purposes of obtaining a discharge upon the payment of any required reopening fee and the filing and service of the local forms required under Bankruptcy Rule 1007(b)(7) and Local Rule 4004-3(A)(3), or (4).

Rule 5011-1. Motions to Withdraw Reference.

(A) Place for Filing. Fee Required. A request for withdrawal in whole or in part of the reference of a case or proceeding, other than a sua sponte request by the judge, shall be filed by motion with the clerk of this court, accompanied by the required filing fee.

(B) Designation of Record; Response to Motion.

(1) Designation of Record. Motions for withdrawal of reference shall include a designation of those portions of the record of the case or proceeding that the moving party believes will reasonably be necessary or pertinent to the district court's consideration of the motion.

(2) Response to Motion; Reply. Within 14 days after service of the motion and designation, any other party may file and serve a response to the motion and a supplemental designation of record. The moving party may file and serve a reply to the response within 14 days after service of the response.

(3) Transcripts. If the record designated by any party includes a transcript of any untranscribed bankruptcy court hearing, that party shall immediately after filing the designation, deliver to the court reporter and file with the clerk of this court, a written request for the transcript and make satisfactory arrangements for payment of its cost.

(C) Transmittal to District Court.

(1) Transmittal of Record. When the record is complete for purposes of transmittal, and after the time for filing a response or reply has expired, the clerk of this court shall promptly transmit to the clerk of the district court the motion to withdraw, all timely filed responses and memoranda, and the portions of the record designated.

(2) Filing of Papers After Transmittal of Record. After the opening of a docket in the district court, papers pertaining to the matter under review by the district court shall be filed with the clerk of the district court, but all papers relating to

other matters in the bankruptcy case or adversary proceeding or contested matter shall continue to be filed with the clerk of this court.

- (3) Transmittal of File.** Unless otherwise directed by the district court judge:
- (a)** if the district court withdraws the reference of the entire case (including all adversary proceedings) or an entire adversary proceeding, this court's clerk shall immediately transmit the entire case or proceeding file to the clerk of the district court; and
 - (b)** if the district court withdraws a portion of the case or proceeding, this court's clerk shall immediately transmit to the clerk of the district court such portions of the case or proceeding file as the parties designate.

[Comment: The General Order of the United States District Court for the Southern District of Florida referring all cases and proceedings arising under or related to Title 11, U.S.C. has been codified into District Court Local Rule 87.2.]

Rule 5011-2. Abstention.

(A) Deadline for Motion; Tolling of Time to Answer. A motion to abstain from a case, under either 11 U.S.C. §305 or 28 U.S.C. §1334, shall be filed not later than 30 days following the first date set for the meeting of creditors. A motion to abstain from an adversary proceeding shall be filed not later than the date set for filing a response under Bankruptcy Rule 7012 and these local rules. If the adversary proceeding is an action removed to this court pursuant to 28 U.S.C. §1452, a motion to abstain must be filed within 21 days after the notice of removal is filed with this court. If a motion for abstention is filed in an adversary proceeding, the time for filing an answer or other responsive pleading shall be extended until 14 days after entry of an order denying such motion.

☞ 2011 Amendment: Subdivision (A) of this rule is amended to correct scrivener's errors and to make provision clearer.

(B) Abstention Treated as Dismissal. An order of abstention from the case shall operate as a dismissal of the case or proceeding.

Rule 5071-1. Continuances. Requests for continuances of scheduled hearings shall be in the form of a motion, and must:

- (A)** state with particularity the grounds for the motion;
- (B)** indicate whether a continuance previously has been granted and whether the opposing party consents;

- (C) certify that the client consents to the continuance; and
- (D) be filed at the earliest practical opportunity prior to the hearing.

The moving party shall submit a proposed order which provides blank spaces for the date and time of the rescheduled hearing in the event that the court grants the motion for continuance without hearing. Motions for continuance will be granted only under exceptional circumstances, and may be considered by the court without a hearing. The stipulation of all parties is not sufficient grounds, standing alone, for a continuance.

[Comment: Compare Local Rule 7090-1 (continuance of trial and pre-trial conferences). See also Local Rule 9013-1(C)(8) (no hearing necessary on motion for continuance).]

Rule 5072-2. Court Security.

(A) Prohibited Materials. No weapons (guns, knives or any other item which may be used as a weapon) or electronic devices as set forth in subdivision (C), shall be permitted in the courtroom, chambers and/or other environs of this court. No items may be left unattended in the court environs. Neither the U.S. Marshal's Service nor the court shall be required to provide storage areas for visitors possessing prohibited items. Visitors to court environs housed in federal buildings shall be required to comply with, and are subject to prosecution for violation of, any existing law, order or other regulation in effect in the respective federal building.

(B) Smoking. Smoking is prohibited in all environs of the court.

(C) Electronic Devices.

(1) General Prohibition. Electronic devices including but not limited to cameras of any type (including cellular phones which have an integrated camera device), cellular phones, pagers, personal data assistants (PDA), laptop computers, tape recorders, etc., are not permitted on the 14th floor of the Claude Pepper Federal Building in Miami, or any areas of the West Palm Beach court offices or the Ft. Lauderdale courthouse building.

(2) Exceptions. Notwithstanding subdivision (A) above:

(a) The restrictions against cellular phones (including phones with integrated camera devices), pagers, personal data assistants (PDA), laptop computers, tape recorders, etc., do not apply to individuals having official business within the court environs and possessing valid identification identifying them as belonging to the following categories: federal courthouse employees, an attorney seeking entry to the Ft. Lauderdale

court environs admitted to practice law within the Southern District of Florida with a valid Florida Bar identification card, an attorney seeking entry to the Miami or West Palm Beach court environs with a valid Florida Bar identification card or attorneys who have been authorized to appear by pro hac vice order (this applies to attorneys only and precludes staff, investigators, clients, etc.) any special agent of the United States government or other law enforcement officer authorized to enforce the law within the Southern District of Florida, court licensed court reporters, U.S. Trustees' Office staff and bankruptcy trustees. Absent permission of the presiding judge, recording and communications devices must remain off while court is in session.

- (b) A judge or other designated authority may, by signed request forwarded to the U.S. Marshal for verification, allow a specific person access to the courthouse with a specific electronic device for a specific purpose and period of time.
- (c) In the event a jury panel is seated in a case or proceeding before this court, the exception set forth in paragraph I(F) of Administrative Order 2006-16 of the United States District Court, Southern District of Florida with respect to cellular phones and jurors (or any subsequently entered administrative order or local rule) shall apply.

(D) Penalty for Violations. The penalty provisions set forth in Administrative Order 2006-16 of the United States District Court, Southern District of Florida (and any subsequently issued administrative order or local rule), shall apply in this court for violations of this rule.

Rule 5073-1. Photography, Recording, and Broadcasting - Use of Devices Prohibited. Notwithstanding the provisions of Local Rule 5072-2(C)(2)(a), which permit certain parties to enter areas of the court environs with electronic devices capable of recording, photographing, broadcasting, or televising, except as required by authorized personnel in the discharge of official duties or as permitted under Local Rule 5072-2(C)(2)(b), use of these devices within the vicinity of any location designated for the holding of court in the district, is prohibited.

[Comment: Substantially conforms to Local Rule 77.1 of the district court, see also Local Rule 5072-2).]

Rule 5080-1. Fees. The clerk shall not be required to accept any papers for filing, render any service, or deposit or disburse any funds from the registry of the court, unless any fee or service charge prescribed by statute or by the Judicial Conference of the United States is paid in advance or contemporaneously, except that child support creditors or their representatives may file papers without the required fees if the Administrative Office of the U.S. Courts Director's Form "Appearance of Child Support Creditor or Representative" has been filed with the court.

[Comment: See Local Rules 1006-1 (installment payments and chapter 7 fee waivers) and 7067-1 (registry funds) and "Clerk's Summary of Fees".]

Rule 5081-1. Fees - Form of Payment.

(A) Payment From Conventional Filers (And Other Filers Exempted or Suspended from Credit Card Payment). Fees or other charges to be paid to the clerk, and any deposits to be deposited with the clerk, must be tendered in one of the following forms:

- (1)** U.S. legal currency (cash may not be remitted by mail);
- (2)** check, cashier's check or money order in U.S. funds made payable to "Clerk, United States Court". Only checks drawn on attorney's trust or operating account (unless the maker is a debtor in a bankruptcy case), on an account of the trustee appointed to the case for which the payment is remitted, or on any United States, state or local government account, will be accepted for payment of filing fees. The clerk **will accept** a personal or business check for payment of copy, certification or research fees, upon presentation of an official government issued photo identification card of the person who is presenting the check. The clerk reserves the right to rescind or amend this policy of acceptance of personal checks without further notice. Payments must be remitted in the exact amount due for the fee owed. No change will be provided for cash, money order, check or other payment remittances.

(B) Payments From Registered Users of CM/ECF.

- (1) Payment by Credit Card Required.** Registered users (other than case trustees, government agencies and other entities which are specifically exempted by the court or registered users with suspended accounts) must use the CM/ECF credit card module to pay fees and make other required deposits for documents filed in CM/ECF.
- (2) Payment Deadline. Sanctions.** The registered user must pay any and all fees for CM/ECF transactions on the date filed. Failing to do so will cause the registered user's electronic filing privileges to be suspended and may result in a bankruptcy petition being dismissed, a document being stricken or sanctions being imposed.

(C) NSF Checks. If any check is returned for insufficient funds or other valid reason by the depository upon which drawn, a returned check fee will be assessed and the clerk may thereafter require cash, cashier's check, or money order from the payor.

(D) Payment Errors.

- (1) Overpayment of Fees.** Overpayments of fees of \$25.00 or less will not be refunded by the court. Refunds of overpayments in excess of \$25.00 must be requested in writing within 30 days.
- (2) Credit Card Payment Errors.** Filing fees paid in error via credit card will only be refunded upon motion and order of the court except when a filing fee is an unintended duplicate payment caused by an error in the court's CM/ECF system or Internet credit card program. Refunds will be processed through the electronic credit card system. Refund checks will not be issued.

[Comment: See Local Rule 7067-1 (registry funds).]

Rule 5091-1. Signatures. Judges. Any order entered electronically without the judge's original signature has the same force and effect as if the judge signed a paper copy of the order and it was entered on the docket conventionally.

Rule 6004-1. Sale of Property.

(A) Motion and Service. A motion seeking authority to sell property of the estate pursuant to 11 U.S.C. §363, shall comply with Bankruptcy Rules 2002, 6003, and 6004, and this rule. Unless otherwise ordered by the court, notice of any use, sale, or lease of property shall be served on the debtor, the debtor's attorney, the trustee, the trustee's attorney, the U.S. Trustee, any party holding an interest in the property, all parties who have filed notices of appearance or requests for copies of notices, and all creditors. In a chapter 11 case, the notice need not be served on any creditors except those who are members of any creditors' committee formed under 11 U.S.C. §1102, or when applicable, those creditors pursuant to Local Rule 2002-1(H); provided, however, that when the proposed use, sale, or lease is of substantially all the property of the estate notice must also be served on all creditors.

[Comment: See also Bankruptcy Rules 2002(h) and 2002(i) and Local Rule 2002-1(F).]

(B) Contents of Motion. The motion shall consist of, or (if the motion is more than five pages in length) begin with, a concise statement of the relief requested, not to exceed five pages, that lists or summarizes, and sets out the location within the relevant documents of all material provisions, including:

- (1)** the identity of the purchaser, if any, and whether the purchaser is an insider of the debtor;
- (2)** the terms of the sale including the price, any warranties, closing date and any closing conditions;

- (3) whether the sale is subject to higher and better offers and, if so, the auction terms including:
 - (a) proposed auction date;
 - (b) minimum incremental bids;
 - (c) initial overbid amount; and
 - (d) the proposed last date for submitting competing bids.
 - (4) the requirements of any competing bidder including:
 - (a) minimum deposit;
 - (b) any documentation requirements; and
 - (c) any other qualifying conditions.
 - (5) any purchaser protections not otherwise described, including, but not limited to:
 - (a) any proposed break up fee;
 - (b) any matching rights.
 - (6) a statement regarding whether the debtor has a policy of prohibiting the transfer of personally identifiable information, whether the sale would be inconsistent with that policy, and whether the debtor believes a consumer privacy ombudsman is required under §332 of the Bankruptcy Code;
 - (7) the identity of all known potential lienholders or interest holders including the nature and extent of their liens or interests and whether such liens or interests are disputed; and
 - (8) a statement setting forth the need for any critical path or accelerated hearings, requesting the dates for any necessary hearings or events to be scheduled by the court.
- (C) Motions Seeking Relief Under 11 U.S.C. §363(h).** Any motion to seek relief under 11 U.S.C. §363(h), shall also comply with the provisions of Bankruptcy Rule 7001.
- (D) Use, Sale, or Lease on Negative Notice.** Unless otherwise ordered by the court, notice of a proposed use, sale or lease of property other than the proposed use of cash collateral, not

in the ordinary course of business, pursuant to Bankruptcy Rule 6004(a) and 11 U.S.C. §363(b), a motion seeking relief under 11 U.S.C. §§363(f), (g) or (h), or a motion seeking relief affecting a pro se debtor may be served using the following negative notice procedures:

- (1) Any motion using these procedures shall include above the preamble and below the title of the notice the following bulletin in print either highlighted or bold so as to make it more prominent than the remainder of the text:

Pursuant to Bankruptcy Rule 6004 and Local Rule 6004-1(D), this proposed use, sale or lease will be deemed approved without necessity of a hearing or order if no objection to the use, sale or lease is filed and served within 21 days from the date of service of this notice.

- (2) An interested party's failure to timely file an objection shall be deemed a consent to the use, sale, or lease. If no objection is filed or served, the proponent shall file a report certifying the lack of any response and the effectuation of the use, sale, or lease. If the proponent requests an order, the proponent shall submit a copy of the agreement of sale together with the Local Form "Certificate of No Response or Settlement" and the proposed order. If the agreement is voluminous, the basic sale terms may be described in the "Certificate of No Response or Settlement" instead of attaching a copy of the agreement. If an objection to the proposed use, sale, or lease of property is received or filed, the proponent of the use, sale, or lease of property shall promptly submit the Local Form "Certificate of Contested Matter". If a certificate of contested matter is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The "Notice of Hearing" shall be served by movant in accordance with the procedures contained in Local Rule 9073-1(B).

[Comment: This procedure may be used for notices of a use, sale or lease of property under Bankruptcy Rule 6004(a) and 11 U.S.C. §363(b). Certain notices of sale do not require orders to effectuate the sale if no objection is filed. Nevertheless, this rule allows the proponent to submit an order where an order approving the sale is requested by the proponent for title or reporting purposes.]

☞ 2011 Amendment: Subdivisions (D) of this rule is amended to prohibit use of negative notice provision against pro se debtors.

Rule 6005-1. Auctioneers.

(A) Local Form Application, Affidavit, Order Required. Applications for court approval of the employment of an auctioneer under 11 U.S.C. §327(a), must substantially conform to the Local Form "Application for Approval of Employment of Auctioneer". Applications shall not include copies of the auctioneer's standard auction contract in lieu of this statement of costs

and expenses and summary of terms of employment and proposed compensation. The application must be accompanied by an affidavit that substantially conforms with the Local Form "Affidavit of Auctioneer"; and (b) a proposed order granting the application that substantially conforms with the Local Form "Order Approving Employment of Auctioneer".

(B) Requirements for Auctioneer. Auctioneers whose employment is proposed must (1) be licensed pursuant to Florida Statutes §468.381 *et seq.*, or §468.387, for out-of-state auctioneers, (2) be covered by the Florida Auctioneer Recovery Fund as required by Florida Statute §468.392, and (3) must either post a blanket (or case specific) fiduciary and faithful performance bond or surety bond, issued by a surety company approved by the Department of the Treasury, in an amount not less than the maximum expected proceeds of any proposed auction or combination of auctions, if a blanket bond. The bond must be in favor of the United States of America and the original bond shall be forwarded to the U.S. Trustee, who will maintain and safeguard the original. A copy of the bond should be provided to the trustee and should be included as an attachment to the application to employ auctioneer, as required by subdivision (A) of this rule.

(C) Compensation. Compensation may be approved by the court upon any reasonable terms and conditions negotiated with the auctioneer including a flat fee, guaranteed return, percentage of gross revenue, buyer's premium or any other reasonable method, provided that the basis for determining the fee is clearly described.

(D) Notice and Hearing. The application may be granted without notice or hearing, if the application reflects that the facts and circumstances so warrant including the size of the auction, the size of the estate, or a special need for haste. The applicant must request a hearing on the application if any aspect of the proposed employment or auction is irregular.

(E) Service of Order. Upon entry of an order approving the employment, the applicant shall serve copies of the order together with the sale notice in accordance with Bankruptcy Rules 2002(a)(2) and (c)(1) and 6004.

(F) Auctioneer's Report Summarizing Sale; Payment of Fees. Upon the completion of the auction, the auctioneer shall file with the court a report (a) summarizing the results of the auction and (b) stating the fees and expenses which will be paid in accordance with the order. Copies of the report shall be served only on the U.S. Trustee, the trustee, and any other party who specifically requests a copy, or if applicable, those parties required to be served pursuant to Local Rule 2002-1(H). The auctioneer's fees and expenses may be paid without the necessity of further notice or hearing unless a party in interest files an objection to the report within 14 days after the report is filed.

Rule 6006-1. Executory Contracts and Unexpired Leases.

(A) Required Bulletin in Orders. Unless otherwise ordered by the court, orders rejecting an executory contract or unexpired lease shall include the following bulletin at the conclusion of

the body of the order, in print either highlighted or bold so as to make it more prominent than any other text:

Any proof of claim for damages arising from the rejection must be filed with the court on or before the latest of: i) the time for filing a proof of claim pursuant to Bankruptcy Rule 3002(c); ii) 30 days after the entry of the order compelling or approving the rejection of the contract or lease; or iii) 30 days after the effective date of the rejection of the contract or lease.

(B) Chapter 13 Cases. Any executory contract or unexpired lease of a chapter 13 debtor, which has not been assumed pursuant to court order prior to entry of an order confirming the debtor's chapter 13 plan, or which is not assumed in the chapter 13 plan confirmed by the court, is deemed rejected upon entry of the confirmation order. The confirmation order shall contain language to this effect.

[Comment: See also Local Rule 3003-1(C) (deadline for claims arising from rejection of executory contracts) and Local Rule 3015-3(B)(3) (local form orders required).]

Rule 6007-1. Abandonment of Property.

(A) Abandonment by Chapter 7 Trustee at §341 Meeting. Notice shall be provided under Local Rule 2002-1(C)(1), that the chapter 7 trustee may abandon at the §341 meeting or post-conversion meeting, all property that the trustee has determined is of no value to the estate. The trustee shall, within two business days after the meeting, file a report of property abandoned at the meeting of creditors, and any objection to the abandonment must be filed within 14 days after the meeting. The trustee's filing of a report of no distribution shall constitute an abandonment of all scheduled assets, but the withdrawal of a report of no distribution shall revert ownership of scheduled assets in the estate. If the chapter 7 trustee wishes to abandon property other than at the §341 or post-conversion meeting, the provisions of subdivision (B)(1) of this rule must be followed.

(B) Other Abandonment. Except for abandonment by a chapter 7 trustee at the §341 meeting or post-conversion meeting, the following provisions apply to abandonment by a trustee or debtor in possession in all cases:

- (1) Abandonment by Chapter 7, 11 or 12 Trustee or Debtor in Possession by Negative Notice.** Notices of proposed abandonment either by a trustee (other than by a chapter 7 trustee at the §341 meeting) or by a chapter 11 or 12 debtor in possession, shall include the following bulletin at the conclusion of the body of the notice, in print either highlighted or bold, so as to make it more prominent than any other text:

Pursuant to Bankruptcy Rule 6007, the proposed abandonment will be deemed approved without necessity of a hearing or order, if no objection is filed and served within 14 days after the date of service of this notice.

Upon receipt of a timely filed objection or other response, the proponent of the abandonment shall promptly file the Local Form "Certificate of Contested Matter". If a certificate of contested matter is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The "Notice of Hearing" shall be served by movant in accordance with the procedures contained in Local Rule 9073-1(B).

When the bulletin in this subdivision is included in the notice, the failure of a party, properly served, to file an objection within 14 days after service of the notice, shall be deemed a consent to the proposed abandonment.

- (2) **Abandonment by Chapter 13 Trustee.** Abandonment by the chapter 13 trustee shall be pursuant to Bankruptcy Rule 6007.

[Comment: See Local Rule 3015-3(B)(3) (local form order confirming chapter 13 plan).]

Rule 7003-1. Commencement of Adversary Proceedings.

- (A) **Title of Complaint.** The title of the complaint must indicate, briefly, the nature of the relief sought.

[Comment: See also Local Rule 9015-1 (demand for jury trial).]

- (B) **Cover Sheet, Corporate Ownership Statement.**

- (1) **Cover Sheet Required When Filing Conventionally.** Conventionally filed adversary complaints must be accompanied by the Administrative Office of the U.S. Courts Director's Form "Adversary Cover Sheet".

- (2) **Corporate Ownership Statement.** A corporate ownership statement shall be filed as required by Bankruptcy Rule 7007-1 and Local Rule 1002-1(A)(2).

- (C) **Judicial Assignment.** Adversary proceedings arising in or related to an existing bankruptcy case shall be assigned to the judge assigned to the existing case. Adversary proceedings transferred from another district shall be assigned randomly.

- (D) **Permissible Joinder of Parties in Adversary Proceedings.**

- (1) **Complaint Requirements.** Adversary complaints listing multiple defendants joined pursuant to Bankruptcy Rule 7020, shall set forth in the complaint the justifications for permissive joinder consistent with the provisions of Bankruptcy Rule 7020.

- (2) **Dismissal for Improper Joinder.** In an adversary complaint listing multiple defendants not properly joined in accordance with the Bankruptcy Rules, the court shall, pursuant to Bankruptcy Rule 7021, and without further advance notice or hearing, retain the first listed defendant in the complaint and dismiss, without prejudice, all other defendants in the adversary proceeding.
- (3) **Consolidation by Court.** This rule shall not be construed to preclude court consideration of consolidation of adversary cases pursuant to Bankruptcy Rule 7042, which makes Rule 42, Fed. R. Civ. P., applicable in adversary proceedings.

[Comment: See Bankruptcy Rules 7020 and 7021 - The plaintiff cannot obtain permissible joinder of multiple defendants based solely on the existence of similar or identical causes of action absent evidence that such right to relief was predicated on, or arising out of a single transaction or occurrence or series of occurrences. For example, an adversary complaint to avoid a preferential transfer or for turnover of property which lists multiple defendants in which a debtor (or trustee) is asserting joinder based on various payments that may be preferential or various claims for goods or services sold or provided to multiple defendants where each transaction was distinct and unrelated does not constitute a "series of transactions or occurrences" that would permit joinder within the meaning of the rule.]

Rule 7004-1. [Note: 7004-1 is a reserved rule number.]

Rule 7004-2. Summons in Adversary Proceeding. Alias Summons.

(A) **General.** The clerk will generate and docket the summons or, if applicable, an alias summons, and electronically transmit it to the plaintiff, who must serve it together with the complaint and pretrial order, on all defendants in accordance with the Bankruptcy Rules and these local rules. The electronic summons is a valid summons, signed, sealed and issued by the clerk. The clerk shall issue an alias summons upon receipt of a notice of non-service and request for issuance of alias summons, and a third party summons, when applicable. Requests for issuance of an alias summons that will require rescheduling of the pretrial conference date shall be considered in accordance with subdivision (B) of this Rule.

(B) **Alias summons.** A request for issuance of an alias summons that would provide for an answer deadline of less than 30 days prior to the date of the originally scheduled pretrial conference must be accompanied by a motion to continue the pretrial conference to a date such that the answer shall be due not later than 30 days prior to the proposed, re-scheduled pretrial conference. The court shall either set the motion for hearing or enter an order directing the clerk to issue an alias summons which shall include a rescheduled pretrial conference that provides for an answer deadline of no later than 30 days before the date of the pretrial conference.

☞2011 Amendment: Subdivisions (A) and (B) of this rule are set forth procedures for seeking issuance of an alias summons.

Rule 7012-1. [Note: 7012-1 is a reserved rule number.]

Rule 7016-1. Pretrial Procedure.

(A) Scheduling Conference Requirements Inapplicable. The provisions of Rule 16(b) of the Federal Rules of Civil Procedure shall be inapplicable to cases or proceedings in this court.

[Comment: See Federal Rule 16(b) (opt-out provision) and Local Rule 87.1 of the United States District Court (bankruptcy court's authority to enact local rules).]

(B) Pretrial Orders. The clerk will electronically generate and docket the “Order Setting Filing and Disclosure Requirements” in an adversary proceeding and transmit it to the plaintiff who must serve the order together with the summons and complaint on all defendants in accordance with the federal and local rules.

[Comment: See also Local Rules 7026-1 (discovery).]

Rule 7026-1. Discovery - General.

(A) Affirmative Disclosure Requirements. Except as otherwise ordered by the court, the provisions of Rules 26(a), (d) and (f) of the Federal Rules of Civil Procedure, shall apply to cases and proceedings in this court only to the extent set forth in the “Order Setting Filing and Disclosure Requirements for Pretrial and Trial”.

(B) Subpoena Forms. Subpoenas served in adversary proceedings or main cases shall conform to, as applicable, the Administrative Office of the U.S. Courts Director’s Procedural Form “Subpoena to Appear and Testify at a Hearing or Trial in a Bankruptcy Case (or Adversary Proceeding)”, the Administrative Office of the U.S. Courts Director’s Procedural Form “Subpoena to Testify at a Deposition in a Bankruptcy Case (or Adversary Proceeding)” or the Administrative Office of the U.S. Courts Director’s Procedural Form “Subpoena to Produce Documents, Information, or Objects or To Permit Inspection in a Bankruptcy Case (or Adversary Proceeding)”.

☞2013 Amendment: Local Rule 7026-1 includes Interim Local Rule 7026-1(B) adopted by Administrative Order 13-02, effective December 1, 2013.

(C) Service and Filing of Discovery Material. The following discovery requests and responses:

- notices of deposition upon oral examination;

- transcripts of deposition upon oral examination;
- depositions upon written questions;
- responses or objections to depositions upon written questions;
- written interrogatories;
- answers or objections to written interrogatories.
- requests for production of documents or to inspect any tangible thing;
- objections to requests for the production of documents or to inspect any tangible thing;
- written requests for admission; and
- answers or objections to written requests for admission;

shall be served upon other attorneys and parties, but shall not be filed with the court, nor shall proof of service be filed, unless upon order of the court or as provided in subdivision (D). The party responsible for service of the discovery material shall retain the original and become the custodian. The original of all depositions upon oral examination shall be retained by the party taking the depositions.

(D) Filing of Discovery Materials Permitted in Certain Circumstances. If depositions, interrogatories, requests for documents, requests for admission, answers or responses are to be used at an evidentiary hearing or trial or are necessary to a pretrial or post-trial motion, the portions to be used shall be filed with the clerk at the outset of the evidentiary hearing or trial or at the filing of the motion insofar as their use can be reasonably anticipated by the parties having custody of the materials. When documentation of discovery not previously in the record is needed for appeal purposes, upon order of the court or by written stipulation of attorneys, the necessary discovery papers may be filed with the clerk.

(E) Motions to Compel, Motions for Protective Order, Required Certification.

- (1) Motions to Compel.** Except for motions grounded upon complete failure to respond to the discovery sought to be compelled, or upon assertion of general or blanket objections to discovery, motions to compel discovery in accordance with Bankruptcy Rules 7033, 7034, 7036 and 7037, shall quote verbatim each interrogatory, request for admission or request for production and the response to which objection is taken followed by: (a) the specific objections, (b) the grounds assigned for the objection (if not apparent from the objection); and (c)

the reasons assigned as supporting the motion, all of which shall be written in immediate succession to one another. Such objections and grounds shall be addressed to the specific interrogatory or request and may not be made generally.

- (2) Motions for Protective Order.** A party may file, prior to the date of a proposed deposition or other discovery deadline, a motion for a protective order stating the reasons for prohibiting, limiting or rescheduling the deposition or other discovery request, and the deposition or response deadline shall be stayed until the court rules on the motion.

(F) Certificate of Attorney as to Motion to Compel or Motion for Protective Order. Prior to filing a motion to compel discovery or a motion for protective order pursuant to Bankruptcy Rule 7026, the attorney for the moving party shall confer with the attorney for the opposing party and shall file with the clerk at the time of filing the motion a statement certifying that the movant's attorney has conferred with the attorney for the opposing party in a good faith effort to resolve by agreement the issues raised and that the attorneys have been unable to do so. If certain of the issues have been resolved by agreement, the statement shall specify the issues so resolved and the issues remaining unresolved.

[Comment: See also Local Rule 9073-1(D) (conference with opposing attorneys required generally.)]

Rule 7030-2. Depositions Upon Oral Examination - Reasonable Notice of Taking Depositions. Unless otherwise stipulated by all interested parties or directed by the court or by these rules, the deposition of any person upon oral examination may be taken upon actual delivery of at least 14 days' notice in writing to the deponent and to every other party to the action.

[Comment: See also Bankruptcy Rule 9014 and Local Rule 9014-1 (contested matters are subject to discovery rules).]

Rule 7041-1. Dismissal of Adversary Proceeding.

(A) Failure to Pay Adversary Filing Fee. If the required adversary complaint filing fee is not paid, the case shall be dismissed.

[Comment: See Local Rules 7003-1 (commencement of adversary proceeding) and 7004-2 (summons).]

(B) When Main Case Has Been Dismissed. The court may, sua sponte, dismiss all adversary proceedings arising in any case which has been dismissed.

Rule 7054-1. Taxation of Costs by Clerk; Motion for Fees and Costs.

(A) Authority to Tax Costs. The clerk shall tax costs only where the judgment entered by the court specifically awards costs to the prevailing party. The clerk shall only tax those costs as permitted by the court's "Guidelines for Taxation of Costs".

(B) Bill of Costs. A party who has been awarded costs shall submit a bill substantially conforming to the Local Form "Bill of Costs". The bill of costs shall be served by the requesting party on all interested parties. The clerk may require the submission of supporting documentation prior to determination of the bill of costs.

(C) Deadline for Filing. The bill of costs shall be filed not later than 14 days after entry of the judgment or order allowing costs.

(D) Notice to Parties of Costs Taxed by Clerk. The clerk shall review the bill of costs and enter the amount of costs allowed on the bill. The bill of costs with the clerk's determination shall be served by the clerk on all interested parties.

(E) Objection to Taxation of Costs by Clerk. Costs taxed by the clerk may be reviewed by the court upon the filing of a motion under Bankruptcy Rule 7054(b).

(F) Motion for Fees and Costs Not Taxable by Clerk. Fees and costs which the clerk is not authorized to tax pursuant to subdivision (A), shall be considered only upon motion to the court filed within 21 days after entry of the judgment.

[Comment: See also "Guidelines for Preparing, Submitting, and Serving Orders", Bankruptcy Rule 8014 and Local Rule 8014-1 (taxation of costs on appeal) and 28 U.S.C. §§1920-1924.]

Rule 7055-1. Default. Motions for entry of default shall be verified (sworn under penalty of perjury) and shall state that the defendant has been properly served with the complaint, that no response has been served on the plaintiff, and that the defendant—if an individual—is not a member of the military service. If defaults have been entered against all defendants, the plaintiff may submit a motion for judgment by default, a supporting affidavit calculating the amount of the damages sought, and a proposed judgment based on the allegations deemed admitted.

Rule 7056-1. Notice to Individuals Regarding Opposing Motions for Summary Judgment. In any adversary proceeding or contested matter, a party serving a motion for summary judgment adverse to an individual must also serve upon each such individual the Local Form "Notice Regarding Opposing Motions For Summary Judgment." A motion for summary judgment adverse to an individual will not be acted upon or set for hearing absent filing of a certificate of service of the Local Form "Notice Regarding Opposing Motions For Summary Judgment" certifying that each individual who was served with a motion for summary judgment has also

been served with the Local Form “Notice Regarding Opposing Motions For Summary Judgment.”

Rule 7067-1. Registry Funds; Deposit in Court.

(A) Fee. Money paid into the court pursuant to Bankruptcy Rule 7067, these local rules or other order of court, shall be assessed a fee as authorized by the Judicial Conference of the United States as established by the Director of the Administrative Office of the United States Courts, and as set forth by administrative order of this court.

(B) Deposit and Withdrawal. In addition to the requirements of Local Rules 5080-1 and 5081-1, registry account funds shall be deposited and withdrawn only pursuant to order of the court or a statute.

(C) Funds Deposited Under 11 U.S.C. §362(l). Notwithstanding provision (A) of this rule, any funds deposited with the clerk under §362(l), shall be deposited into the non-interest bearing treasury account of the court. The court shall order the clerk to disburse these funds only upon the filing of a motion served on all affected parties. Reference in this rule to funds deposited under §362(l), is not a finding by this court that the prerequisite for depositing money into the court registry under §362(l)(l)(A), exists under Florida law.

[Comment: See also Local Rule 2002-1(C)(14).]

(D) Funds Deposited Directly Into U.S. Treasury Account. Deposits accompanying writs of garnishment and deposits by a trustee or disbursement agent in a chapter 11 case, shall be deposited directly into the U.S. Treasury Registry Account. Neither registry fees or interest shall accrue on these funds.

[Comment: See “Clerk’s Summary of Fees” and Administrative Order “Registry Fund Fees”.]

Rule 7069-1. Execution.

(A) Authority. Procedures in aid of execution of a judgment of this court may be conducted in the same proceeding in which the judgment was entered.

(B) Registration of Judgment from Another District. Judgments entered in another district may be registered in this district prior to or at the time a writ of execution or garnishment is sought by filing, with the clerk, a copy of the judgment (including any bill of costs entered), accompanied by the miscellaneous proceeding fee and the Administrative Office of the U.S. Courts Director’s Form “Certification of Judgment for Registration in Another District”, or a certified copy of an order allowing the judgment to be registered in this district.

(C) Writ of Execution. The party seeking the issuance of a writ of execution shall prepare the Local Form “Writ of Execution to the United States Marshal” for the clerk to issue. The writ

shall be accompanied by a motion for writ and a certified copy of the judgment, including any bill of costs entered.

(D) Writs of Garnishment. Writs of garnishments shall be issued in accordance with Florida law.

- (1) Issuance of Writ.** The party seeking issuance of a writ of garnishment shall file a motion accompanied by a prepared writ, a certified copy of the judgment, and any bill of costs entered. If the writ is issued against an individual, the clerk shall attach to the writ a copy of the Local Form “Notice Pursuant to Florida Statute §77.041 to Defendant of Right Against Garnishment of Wages, Money and Other Property” with attached “Claim of Exemption and Request for Hearing” (with the caption of the case filled in on the form “Claim of Exemption and Request for Hearing”). The following notice must accompany service of the writ: **“Under Florida Statutes §77.28, upon issuance of any writ of garnishment, the party applying for it shall pay \$100 to the garnishee on the garnishee's demand at any time after the service of the writ, for the payment or part payment of his or her attorney's fees which the garnishee expends or agrees to expend in obtaining representation in response to the writ.”** In addition to service of other garnishment papers, a copy of this rule shall be served on the defendant. If the writ is being sought pursuant to Florida Statute §77.0305 (continuing writ of garnishment against salary or wages) or Florida Statutes §77.031 (issuance of writ before judgment), the filing of the writ must be accompanied by a motion and a proposed order.
- (2) Objection to Claim of Exemption.** An objection to a defendant’s “Claim of Exemption and Request for Hearing” shall be set for hearing in accordance with Local Rule 9073-1.
- (3) Dissolution of Writ by Clerk.** The clerk shall automatically dissolve the writ and notify the parties of the dissolution by mail upon failure of the plaintiff to timely contest the defendant’s claim of exemption.
- (4) Deadlines.** Absent further order of the court, the procedures and deadlines set forth in Florida Statute §77.041, shall apply to writs of garnishments issued in this court.

☞ 2014 Amendment: Local Rule 7069-1 includes Interim Local Rule 7069-1(D) adopted by Administrative Order 14-04, effective September 15, 2014.

(E) Satisfaction of Judgment. Satisfaction of judgment shall be filed with the court promptly upon collection of the judgment.

(F) Effect of Appeal. The filing of a notice of appeal shall not stay issuance of a writ absent entry of an order granting stay of execution prior to the expiration of the time for appeal of the judgment.

Rule 7090-1. Continuance of Pretrial and Trial. Requests for continuance of a pretrial conference or trial must be requested by written motion filed no later than two business days before the pretrial conference. The motion must set forth (1) why the parties seek a continuance; (2) whether a continuance has previously been granted; (3) whether the client and opposing party consent to a continuance; and (3) the status of the litigation, including exchange of initial disclosures and status of discovery. The moving party shall submit a proposed order which provides blank spaces for the date and time of the rescheduled trial or pretrial conference in the event that the court grants the motion without hearing. Motions for continuance will be granted only under exceptional circumstances, and the stipulation of all parties is not sufficient grounds, standing alone, for a continuance.

[Comment: Compare Local Rule 5071-1 (continuances of hearings), and Local Rule 9013-1(C)(8) (no hearing necessary on motion for continuance).]

Rule 8001-1. Notice of Appeal. Required Content and Fee. A notice of appeal shall contain the title and date of the order or judgment being appealed and shall be accompanied by the prescribed fee. A separate notice of appeal and filing fee is required for each order or judgment being appealed except that a single notice of appeal may commence an appeal of an order or judgment and subsequent orders addressing requested amendment to or requested relief from the same underlying order or judgment. If the prescribed fee does not accompany the notice of appeal, after service by the clerk of a fee due notice the appeal shall be dismissed by this court as authorized by District Court Local Rule 87.4(b).

☞ 2011 Amendment: This rule is amended to reflect change in numbering of district court local rules as previously implemented by this court's Administrative Order 10-03 and to revise for stylistic changes.

Rule 8002-1. Time for Filing Notice of Appeal.

(A) Dismissal of Untimely Appeal. A notice of appeal filed after the time period specified in Bankruptcy Rule 8002 will be dismissed by this court as authorized by District Court Local Rule 87.4(b).

☞ 2011 Amendment: This rule is amended to reflect change in numbering of district court local rules as previously implemented by this court's Administrative Order 10-03.

(B) Premature Appeal. If a notice of appeal is filed after the announcement of a ruling by the court but before entry on the docket of the written judgment, order, or decree, the notice will be docketed but not served in accordance with Bankruptcy Rule 8004. Once the judgment is entered on the docket, the notice of appeal will be served by the clerk, noting the date the judgment was entered on the docket as the filing date of the notice of appeal.

Rule 8003-1. Motions for Leave to Appeal.

(A) Fee Required. A motion for leave to appeal shall be accompanied by the prescribed filing fee. A motion for leave to appeal not accompanied by the fee shall be dismissed by this court after service of notice by the clerk of the fee requirement, as authorized by District Court Local Rule 87.4(b).

☞ 2011 Amendment: This rule is amended to reflect change in numbering of district court local rules as previously implemented by this court's Administrative Order 10-03.

(B) No Designation Required Until Leave to Appeal Docketed. The filing deadlines set forth in Bankruptcy Rule 8006, shall not begin until the district court order granting the motion is docketed in the bankruptcy court. Within seven days from the entry of the district court order granting a motion for leave to appeal, the appellant shall pay the prescribed appellate docketing fee to the clerk of the bankruptcy court.

[Comment: See "Clerk's Instructions for Appeals".]

Rule 8005-1. Motions for Stay Pending Appeal. Motions for stay pending appeal that request relief from the district court must be filed directly with the district court in accordance with District Court Local Rule 87.4(c). If a stay pending appeal has been granted by the district court the movant shall immediately file a copy of the district court ruling with the clerk of the bankruptcy court.

[Comment: See Local Rule 7069-1(F). (Writs shall issue absent entry of an order granting stay of execution).]

☞ 2011 Amendment: This rule is amended to reflect change in numbering of district court local rules as previously implemented by this court's Administrative Order 10-03 and to revise for stylistic changes.

Rule 8006-1. Record and Issues on Appeal.

(A) Dismissal for Failure to File Designation of Record or Statement of Issues. If the appellant fails to timely file a designation of record or statement of the issues as required by Bankruptcy Rule 8006, this court shall dismiss the appeal as authorized by District Court Local Rule 87.4(b).

☞2011 Amendment: This rule is amended to emphasize that the designation must be timely filed to avoid dismissal and to reflect the change in numbering of district court local rules as previously implemented by this court's Administrative Order 10-03.

(B) Ordering Transcripts. The Local Form "Appeal Information Sheet" provided by the clerk shall be used to order any untranscribed portion of the record. Charges for transcripts shall be in accordance with the rates adopted by administrative order of this court.

[Comment: See "Clerk's Instructions for Appeals".]

Rule 8011-3. Determination of Motion - Appeal. A motion to dismiss or other request for intermediate relief as contemplated under Bankruptcy Rule 8007(c) shall be filed directly with the district court in accordance with District Court Local Rule 87.4(c).

☞2011 Amendment: This rule is amended to reflect change in numbering of district court local rules as previously implemented by this court's Administrative Order 10-03.

Rule 8011-4. Emergency Motion - Appeal; Request to Expedite Appeal. Bankruptcy appeals requiring expeditious treatment by the district court shall be brought to the attention of the clerk of the bankruptcy court by filing the Local Form "Request to Expedite Appeal" at any time prior to transmittal of the record. This request shall be brought to the attention of the clerk of the district court by the clerk of the bankruptcy court upon transmittal of the record on appeal.

Rule 8014-1. Taxation of Appellate Costs by Clerk; Motion for Fees and Costs.

(A) Authority to Tax Costs. The clerk shall only tax those costs as permitted by Bankruptcy Rule 8014 and the court's "Guidelines for Taxation of Costs".

(B) Bill of Costs. A party eligible for costs shall submit a bill substantially conforming to the Local Form "Bill of Costs". The bill of costs shall be served by the requesting party on all interested parties. The clerk may require the submission of supporting documentation prior to determination of the bill of costs.

(C) Deadline for Filing. The bill of costs shall be filed not later than 30 days after entry of the judgment or order of the district court.

(D) Notice to Parties of Costs Taxed by Clerk. The clerk shall review the bill of costs and enter the amount of costs allowed on the bill. A copy of the bill of costs with the clerk's determination shall be served by the clerk on all interested parties.

(E) Objection to Taxation of Costs by Clerk. On an objection served within seven days after entry of the bill of costs, the action of the clerk shall be reviewed by the court.

(F) Motion for Fees and Costs Not Taxable by Clerk. Fees and costs which the clerk is not authorized to tax pursuant to subdivision (A), shall be considered only upon motion to the court filed within 30 days after entry of the judgment or order.

[Comment: See also Bankruptcy Rule 7054 and Local Rule 7054-1 (taxation of costs in adversary proceeding) and 28 U.S.C. §§1920 - 1924.]

Rule 9004-1. Requirements for Form and Style of Papers. Papers tendered for filing shall meet the following requirements of form and style:

(A) Official Forms and Local Forms. Papers in the form prescribed by a local form or other form specifically authorized by the Bankruptcy Rules or these rules shall be deemed in compliance with this rule. All forms must be completed in their entirety.

[Comment: In accordance with the federal judiciary privacy policy, local and internal forms either exclude the debtor's social security or other individual taxpayer identification number entirely or to redact the number to the last four digits.]

(B) Format. All papers shall be plainly and legibly typewritten, printed or reproduced on one side of standard weight white/opaque paper only, with not less than 1 ½ spaces between lines except for quoted material. Margins shall be at least 3/4 inch at the bottom and both sides and 1 inch at the top of each page (except as otherwise required in the court's "Guidelines for Preparing, Submitting and Serving Orders"). All papers of more than one page, must be securely fastened, but not stapled, at the top left-hand corner and must be paginated at the bottom of each page.

(C) Title of Paper. The title of every paper filed, except exhibits, shall be in bold, identify the filing party and shall be descriptive of the paper, indicating the relief sought or the action proposed. Agreed matters must be designated as "agreed" in the title. The titles of orders must comply with the requirements in the court's "Guidelines for Preparing, Submitting and Serving Orders".

(D) Attachments. Documents filed with the court shall not have as an attachment any document already filed in the case or proceeding. Instead, when referencing previously filed documents in a document being filed, include, in parentheses next to the name of the referenced document, the referenced document's electronic docket entry or claim number.

[Comment: See also Local Rule 2002-1(H) (copies for service purposes may be 2-sided, but not "sandwiched").]

☞ 2011 Amendment: Subdivision (D) of this rule is amended to clarify how previously filed documents are to be referenced and not attached.
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Rule 9004-2. Caption - Papers.

(A) Caption - General. The caption of all papers, except for orders, shall conform to applicable Official Form “Caption”. The court style shall be centered at the top of the first page, and the case number shall include the judge’s initials and chapter of the case shall appear to the right of the case style. Captions for miscellaneous proceedings filed in this court shall contain the court style for this district and the case name for the district where the case is pending and shall include the out-of-district case number and the court name below the space provided for the case number assigned by this court.

☞2013 Amendment: Local Rule 9004-2 includes Interim Local Rule 9004-2(A) adopted by Administrative Order 13-02, effective December 1, 2013.

(B) Caption - Jointly Administered Cases. All papers, other than in the lead case, shall be captioned under the lead case name and case number followed by the words “(Jointly Administered)” and, beneath that caption, the case names and numbers for the cases in which the paper is being filed. However, a proof of claim shall indicate only the case name and number of the case in which the claim is asserted. The style shall not use the word “Consolidated” to refer to joint administration, unless the estates have been substantively consolidated by court order.

(C) Caption – Substantively Consolidated Cases. All papers in substantively consolidated cases of two or more individual debtors shall contain in the case style the name of each debtor and the case number of the case into which the cases have been consolidated. In all other instances, all papers in substantively consolidated cases shall contain in the case style only the name and case number of the case into which the cases have been consolidated.

[Comment: See also Local Rules 7003-1(A), 9004-1(C), 9015-1(A), and 9075-1 (particular requirements in title) and this court’s “Guidelines for Preparing, Submitting and Serving Orders”.]

☞2011 Amendment: Subdivision (C) of this rule is amended to reflect change in manner of reflecting style of case in substantively consolidated cases of two or more individual debtors.

Rule 9005-1. Harmless Errors in Setting Deadlines. The clerk is authorized to correct any deadline established in error and to provide notice of the corrected deadline.

Rule 9009-1. Local Forms. The court may promulgate local forms which supplement or modify the Official Forms promulgated by the Judicial Conference of the United States and the additional forms promulgated by the Director of the Administrative Office of the United States Courts, and which complement these rules and the Bankruptcy Rules. Unless otherwise directed by the court, the applicable local forms must be used in every case or proceeding. Local forms shall be used without any variation, to the extent possible, and any variation or fill-in-the-blank portion must be underlined or bold. The clerk shall maintain a current set and list

of all local forms, each bearing the date of its most recent revision, copies of which shall be made available in each office and on the court web site.

[Comment: See also Local Rule 9004-1(A) (official forms and local forms comply with format requirements for papers).]

Rule 9010-1. Notice of Appearance.

(A) Requirement of Notice of Appearance. Every attorney representing a party or witness in any case or proceeding in this court must file a notice of appearance in the case or proceeding, except that the notice need not be filed when the appearance has previously been evidenced by the filing of a paper on behalf of the client. For the purpose of this rule, the filing of any paper (other than a ballot or proof of claim) shall, unless otherwise specified, constitute an appearance by the attorney who signs or electronically files it. An appearance filed in the main bankruptcy case is not an appearance in the adversary proceeding nor is an appearance in an adversary proceeding an appearance in the main case. To receive service in both a main case and a related adversary proceeding, a notice of appearance must be filed in the main case and another notice of appearance must be filed in the adversary proceeding.

(B) Appearing Without an Attorney.

- (1) Corporations and Other Artificial Entities.** A corporation, partnership, trust, or other artificial entity cannot appear or act on its own behalf without an attorney in a case or proceeding, except that it may take the following actions without an attorney: file requests for service of notices pursuant to Bankruptcy Rule 2002, file proofs of claim, file notices under Local Rule 3070-1(B), or file a ballot, and attend and participate at the meeting of creditors held under 11 U.S.C. §341.
- (2) Parties Already Represented by Attorney.** A party who has appeared by attorney cannot thereafter appear or act in his or her own behalf in the case or proceeding—unless the attorney shall first have withdrawn as the attorney pursuant to Local Rule 2091-1—except to file a proof of claim, notices filed under Local Rule 3070-1(B), or a ballot, or to attend and inquire at the meeting of creditors; provided, that the court may in its discretion hear a party in open court, notwithstanding the fact that the party has appeared by or is represented by an attorney.

☞2011 Amendment: Subdivision (B)(1) of this rule is amended to remove provision that previously permitted non individual parties to file a response to an objection to a claim and to reflect stylistic changes.

Rule 9011-4. Signatures.

(A) Identification of Attorney.

(1) Required Signature Block. In the signature block on all court papers signed electronically or conventionally, the attorney must be identified by name, state bar number, complete mailing address, telephone number and the name of the party who the attorney represents.

(2) Login and Password for Attorneys Filing as “Registered Users” of CM/ECF.

(a) The clerk will assign a unique login and an initial password to each registered user which is that registered user’s signature on electronic documents for all purposes, including those under Bankruptcy Rule 9011, 28 U.S.C. §1746, and this court’s local rules. A registered user’s electronic signature has the same force and effect as if the registered user signed a paper copy of the document being filed. If a registered user authorizes one or more employees to use the login and password or if the registered user’s login and password is used without authorization, the registered user is responsible for such use and, in the event of unauthorized use, must notify the clerk and immediately take the necessary steps to deactivate access.

(b) Attorneys shall not share an assigned login and password with other attorneys for the purpose of having documents filed in CM/ECF. The typewritten name of the filing registered user must appear on the document and match the login name of that registered user’s ECF account.

(B) Certification of Attorney. Papers filed by an attorney appearing:

(1) as a qualified attorney pursuant to Local Rule 2090-1(A), must contain this certification: “I hereby certify that I am admitted to the Bar of the United States District Court for the Southern District of Florida and I am in compliance with the additional qualifications to practice in this court set forth in Local Rule 2090-1(A)”. The certification requirement of this provision shall not apply to registered users of CM/ECF appearing in this court under Local Rule 2090-1(A), if they have previously signed a “CM/ECF Full Filing Attorney Agreement” which contains the same certification requirements.

(2) pro hac vice pursuant to Local Rule 2090-1(B)(2), must contain this certification: “I hereby certify that the undersigned attorney is appearing pro hac vice in this matter pursuant to court order dated (date)”. This certification shall be placed in papers in the locations described in subdivision (1) above.

(C) Local Form “Declaration” Required. Attorneys must file the Local Form “Declaration Under Penalty of Perjury to Accompany Petitions, Schedules and Statements Filed Electronically” (“Declaration”), with each initial voluntary petition or amended voluntary petition. The “Declaration” must also be filed with each initial or amended schedule and each initial or amended statement filed separately from the initial voluntary petition unless these documents contain an imaged signature of the debtor. The registered user filing the “Declaration” must keep the signed original for the time provided by Local Rule 5005-4(C). Failing to file this form with the initial petition will result in immediate dismissal of the case. Failing to file this form with an amended petition, a schedule, an amended schedule, a statement or an amended statement will result in entry of an order striking the document.

(D) Verification of Debtor’s Social Security Number. In individual debtor cases filed in CM/ECF, the registered user must obtain the debtor(s)’ original signature(s) on a paper copy of the Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))” (including any amendments), and must keep the original signed document for the time provided by Local Rule 5005-4(C). The Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))” containing the debtor’s original signature must be scanned and converted to PDF format and electronically filed with the petition as a separate docket entry, or, if the Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))” filed with the court does not contain the imaged signature of the debtor(s), it must be accompanied by a Local Form “Declaration Under Penalty of Perjury to Accompany Petitions, Schedules and Statements Filed Electronically”, containing the original signature(s) of the debtor(s). In accordance with the federal judiciary’s privacy policy, the PDF image of the document which contains the debtor’s complete social security or other individual taxpayer identification number will not be available for public viewing. The registered user must verify that the social security number (or other individual taxpayer identification number provided on the Official Bankruptcy Form “Statement of Social-Security Number(s) (or other Individual Taxpayer-Identification Number(s) (ITIN(s)))” is the same number entered in CM/ECF and appearing on the §341 notice of commencement of case to ensure correct numbers are reflected in the court’s records.

(E) Registered users must retain electronically filed documents signed by other than the registered user for as provided under Local Rule 5005-4(C).

[Comment: See Local Rules 1007-2(B) and 1009-1(D) (debtor must sign schedules, statements and lists), 2090-1 (attorneys) and Bankruptcy Rules 9010 (attorneys) and 9011 (effect of signature).]

Rule 9013-1. Motions.

(A) Preamble. This rule applies to all motion practice. Local Rule 9075-1 describes the procedures to be followed in emergency motion practice.

(B) Form, Content, Service of Motions. The form of motions and other requests for court action or relief is governed by Local Rules 5005-3, 5005-4, 9004-1, 9004-2, 9011-4 and 9072-1. All motions must state with particularity the grounds for the motion and must request specific relief.

(C) Motions That May Be Considered Without a Hearing (Ex Parte Motions). In addition to those matters that may be considered without a hearing pursuant to the Bankruptcy Rules or other provisions in these rules, unless otherwise directed by the court no hearing is required for the following motions. For each motion indicated below, the moving party shall follow the procedure in Local Rule 5005-1(G)(1)(a) and not the procedure in Local Rule 9073-1. Upon entry of an order, the motion and entered order shall be served as required by these rules. This subdivision is not intended to restrict a judge's authority to grant relief without a hearing on other motions.

- (1)** Motions in which the movant certifies that all affected parties have consented to the requested relief.
- (2)** Motions to extend the time for filing schedules, statements, or lists, where the requested extended deadline is not later than seven days before the §341 meeting or post-conversion meeting. The motion must be served on the debtor, the trustee, the U.S. Trustee, and all parties who have requested notices. In a chapter 11 case, where applicable, the notice must also be served on the parties listed on the "Master Service List" filed pursuant to Local Rule 2002-1(H).

[Comment: See also Local Rules 1007-1(C) and 1019-1(A) (extension of time to file schedules, statements, and lists).]

- (3)** Subject to the requirements of Bankruptcy Rule 6003, motions to approve employment of professionals, where the motion does not seek approval of a postpetition retainer or a particular fee arrangement, and the motion does not reveal any actual or potential conflict of interest or any other facts that could preclude retention. The motion must be served on the debtor, the trustee, the U.S. Trustee, and the attorney for or members of any creditors' committee or, in the absence of a committee, the 20 largest unsecured creditors in a chapter 11 case, and all parties who have requested notices. In a chapter 11 case, when applicable, the notice must also be served on the parties listed on the "Master Service List" filed pursuant to Local Rule 2002-1(H).

[Comment: See also Local Rules 2014-1 (employment of professionals) and 6005-1 (employment of auctioneers).]

- (4)** Subject to the requirements of Bankruptcy Rule 6003, motions to approve employment of real estate brokers, and to fix compensation for brokers, where the motion seeks to fix the compensation at the standard rate charged for similar services. The motion must be served on the debtor, the trustee, the U.S. Trustee, and the attorney for or members of any creditors' committee or, in the absence of a committee, the 20 largest unsecured creditors in a chapter 11 case, and all parties who have requested notice. In a chapter 11 case, where applicable, the notice must also be served on the parties listed on the "Master Service List" filed pursuant to Local Rule 2002-1(H).

[Comment: See also Local Rules 2014-1 and 9013-1(C)(3) (employment of professionals).]

- (5)** Motions to extend time to file objections to claimed exemptions, where the motion reflects that:
- (a)** the debtor has consented to the requested relief;
 - (b)** the debtor has failed to appear at a properly scheduled Bankruptcy Rule 2004 examination;
 - (c)** the debtor has failed to produce properly requested documents; or
 - (d)** despite reasonable diligence by the movant, discovery has been propounded which is not due until after the deadline, or Bankruptcy Rule 2004 examinations have been noticed for a date after the deadline and the discovery is necessary to evaluate whether to file an objection.

Unless the debtor agrees to a longer extension, the requested extension cannot be longer than 30 days after the original (or previously extended) deadline. The motion shall be served on the debtor, the trustee, and any creditor included in the moving party's request for extension.

- (6)** Motions to extend time to file complaints or motions objecting to discharge under §727, motions objecting to discharge under §1328(f), and complaints objecting to dischargeability under §523, but only if the debtor consents to the requested extension. The motion must indicate in the body if it is an agreed motion and indicate the date the petition was filed.

[Comment: See Bankruptcy Rules 4004 and 4007.]

<p>☞ 2011 Amendment: Subdivision (C) introductory paragraph is amended to reflect stylistic changes. Subdivision (C)(6) is amended to incorporate provisions adopted by this court's Administrative Order 10-5 which were necessitated by December 1, 2010 amendments to Bankruptcy Rules 4004 and 7001.</p>
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- (7) Motions to shorten or extend time for responding to discovery requests. The motion must be served on all interested parties or if applicable, pursuant to Local Rule 2002-1(H).

[Comment: See also Local Rules 4001-1(G) (discovery in stay relief matters), 7016-1 (judges' pre-trial procedures), and 7030-2 (depositions).]

- (8) Agreed motions for continuances of hearings, trials or pre-trial conferences. The motion must be served on all interested parties or if applicable, pursuant to Local Rule 2002-1(H).

[Comment: See Local Rules 5071-1 (continuance of hearings) and 7090-1 (continuances of trials or pre-trial conferences).]

- (9) Motions for pro hac vice appearance. The motion must be served on the debtor, the trustee, the U.S. Trustee, and all interested parties or if applicable, pursuant to Local Rule 2002-1(H).

[Comment: See Local Rule 2090-1 (attorneys).]

- (10) Motions by the chapter 7 trustee to approve sales of property for \$2,500 or less. The motion must be served on the debtor and the U.S. Trustee.

[Comment: See also Bankruptcy Rule 6004 and Local Rule 6004-1 (sales).]

- (11) Motions to reopen chapter 7 cases to administer additional assets. The motion must be served on the debtor and the U.S. Trustee.

[Comment: See Local Rules 5010-1(C) and 9013-1(D)(3)(i) (reopening closed case).]

- (12) Motions by debtors to convert under 11 U.S.C. §1112(a). The motion must be served on the U.S. Trustee and the trustee, if applicable, or when applicable, pursuant to Local Rule 2002-1(H).

- (13) Motions by debtors to dismiss under 11 U.S.C. §1307(b) or under 11 U.S.C. §1208(b).

- (14) Motions for joint administration of chapter 11 cases.

[Comment: See Local Rule 3017-2.]

- (15) Motions for Orders Confirming Termination of Automatic Stay Under 11 U.S.C. §362(c)(3)(A). Such motions shall be considered upon expiration of the 30-day

period after the case was filed if accompanied by a certificate which (a) recites the facts which establish that the status of the debtor is that as described in §362(c)(3), and (b) includes a statement that no order continuing the stay has been entered under §362(c)(3)(B), and a proposed order confirming termination of the stay which sets forth the statement attested to by the creditor in the required certificate.

- (16)** Motions for Orders Confirming That Automatic Stay is Not in Effect Under 11 U.S.C. §362(c)(4)(A)(i). Such motions shall be accompanied by a certificate which (a) recites the facts which establish that the status of the debtor is that as described in §362(c)(4)(A)(i), and (b) includes a statement that no order imposing the stay has been entered under §362(c)(4)(B), and a proposed order confirming that no stay is in effect which sets forth the statements attested to by the creditor in the required certificate.
- (17)** Motions for Order Confirming That Automatic Stay is Not in Effect Under 11 U.S.C. §362(b)(23). Such motions shall be considered if the debtor has not filed an objection under 11 U.S.C. §362(m)(2), within the 14-day period after the lessor files and serves the certification described in 11 U.S.C. §362(b)(23), and upon the filing by the lessor of a Local Form “Certificate of No Response”, accompanied by proposed order confirming that the stay is not in effect.
- (18)** Trustee’s motions to pay debtors their allocable portion of any tax refund.
- (19)** Trustee’s motions to waive the balance of debtor’s settlement payments where the amount waived is the lesser of \$100 or 1% of the total settlement amount.
- (20)** Debtor’s motions to terminate wage deduction order so long as the motion represents that all payments have been completed under the debtor’s chapter 13 plan and the chapter 13 trustee is served with a copy of the motion.
- (21)** Debtor’s motion to reopen case to file Official Bankruptcy Form “Debtor’s Certification of Completion of Instructional Course Concerning Financial Management”.

[Comment: See Local Rule 5010-1(G).]

- (22)** Debtor’s motion to amend petition to correct debtor’s name.

[Comment: see Local Rule 1009-1(B)]

- (23)** Joint motions for substitution of counsel under Local Rule 2091-1.

- (24) Motions to continue a pretrial conference in an adversary proceeding, following issuance of an alias summons under Local Rule 7004-2, to permit the timely filing of an answer not later than 30 days prior to the proposed, re-scheduled pretrial conference.
- (25) Motions to redact personal information under Local Rule 5005-1(A)(3).

☞ 2011 Amendment: Subdivisions (C)(22), (23), and (24) are new additions to matters which may be considered ex parte.

☞ 2014 Amendment: Subdivision (C)(25) is a new addition to matters which may be considered ex parte.

(D) Motions Considered on Negative Notice.

- (1) **Introduction.** Certain motions may be considered by the court without a hearing if appropriate notice and an opportunity to object to the relief requested is provided to interested parties (“negative notice”). The option provided in this rule is not intended to limit the court’s discretion to grant or deny relief sooner than 21 days after service of the motion.
 - (a) In addition to those motions listed under subdivision (D)(4), the negative notice procedure may not be used for any motion including a request for relief against a pro se debtor, or for those motions governed by the negative notice procedures described in Local Rules 3007-1(C) (objections to claims), 4001-1(C) (motions for stay relief), 6004-1(B) (certain notices of sale) and 6007-1(B)(1) (certain notices of abandonment).
 - (b) Motions may not combine requests for relief under more than one negative notice rule or combine any motion seeking relief on negative notice with a motion seeking relief for which negative notice is unavailable. In such instances, the court may deny the relief requested or required the filing of separate motions.
- (2) **Use of Bulletin; Procedures.** Subject to the limitations of Local Rule 9013(D)(1), whenever the Bankruptcy Code or Bankruptcy Rules provide that an order may be entered “after notice and a hearing” or similar phrase, the motion may include above the preamble and below the title of the motion the following bulletin (in print either highlighted or bold so as to make it more prominent than the remainder of the text):

NOTICE

Any interested party who fails to file and serve a written response to this motion within 21 days after the date of service stated in this motion shall, pursuant to Local Rule 9013-1(D), be deemed to have consented to the entry of an order in the form attached to this motion. Any scheduled hearing may then be canceled.

Each motion filed under this subdivision must attach a proposed order as an exhibit. When this bulletin is included in the motion, a party properly served who fails to file a written response within 21 days after service of the motion shall be deemed to have consented to the entry of the order. Within seven days after the expiration of the 21 days notice period, the moving party shall submit to the court the following: (a) if no response is received or filed, the Local Form "Certificate of No Response or Settlement" and the proposed order granting the relief requested; or (b) if a response contesting the relief requested is received or filed, the Local Form "Certificate of Contested Matter". If a certificate of contested matter is filed, the court will schedule a hearing in accordance with the procedures contained in Local Rule 9073-1(A). The "Notice of Hearing" shall be served by movant in accordance with the procedures contained in Local Rule 9073-1(B).

- (3) Motions For Which Negative Notice May Be Used.** The following is a non-exclusive list of motions that may be considered without a hearing, provided such motions do not affect the rights of a pro se debtor.
- (a)** motions to compel abandonment of property (Bankruptcy Rule 6007(b));
 - (b)** motions to approve compromise or settlement (Bankruptcy Rule 9019);
 - (c)** motions to approve accounting by prior custodian (Bankruptcy Rule 6002);
 - (d)** motions to extend time to object to exemptions (Bankruptcy Rule 4003(b));
 - (e)** motions to temporarily allow claim for voting purposes (Bankruptcy Rule 3018(a));
 - (f)** motions to avoid liens on exempt property (Bankruptcy Rule 4003(d));
 - (g)** motions to obtain credit (11 U.S.C. §364);

- (h) motions to convert case pursuant to 11 U.S.C. §706(a);
- (i) motions to reopen chapter 7 cases to add omitted creditors; and
- (j) motions seeking entry of an order under 11 U.S.C. §362(j), confirming that the automatic stay has terminated under 11 U.S.C. §362(c)(1). The motion shall recite the facts which establish that the stay has terminated, including, if applicable, a statement that the debtor has failed to comply with 11 U.S.C. §521(a)(6), by either (i) failing to timely reaffirm a debt described in that section; or (ii) failing to timely redeem the collateral securing such debt. The statement shall also confirm that the trustee has not filed a motion under §521(a)(6)(B), to determine that the property is of consequential value or benefit to the estate. The motion shall be served on the debtor, the trustee, and any other party of record claiming an interest in the collateral.

☞2011 Amendment: The introductory paragraph to subdivision (3) of this rule is amended to exclude motions against a pro se party from matters which may be considered on negative notice.

- (4) Motions Not Within Scope of Rule.** The following motions may not be considered by negative notice under Local Rule 9013-1(D):
- (a) motions to assume or reject executory contracts or unexpired leases, or to compel assumption or rejection;
 - (b) motions to use, sell, or lease property except motions by a chapter 7 trustee to sell property for \$2,500 or less as described in subdivision (C)(10) of this rule;

[Comment: See Bankruptcy Rule 6004; see also Local Rule 6004-1(B) (notice of sale).]

- (c) motions to approve employment of professionals except those described in subdivision (C)(3) of this rule;

[Comment: See Bankruptcy Rule 2014.]

- (d) motions to extend exclusivity period;

[Comment: See 11 U.S.C. §1121(d).]

- (e) motions for payment of administrative expenses, including professional fees;

[Comment: See 11 U.S.C. §503(a), §330 and §331, but see special notice requirements in Bankruptcy Rule 2002(c)(2) and Local Rule 2002-1(C)(9).]

- (f) motions to appoint trustee or examiner;

[Comment: See 11 U.S.C. §303(g) or §1104.]

- (g) motions which seek alternative relief;
- (h) motions to modify chapter 13 plans; and
- (i) motions for joint administration in cases other than chapter 11 and motions requesting joint administration of a case involving an individual debtor with one or more cases involving a non-individual debtor.
- (j) motions for relief against a pro se debtor which affect a pro se debtor's rights.
- (k) motions to dismiss a chapter 7 or chapter 11 case.
- (l) motions to dismiss a chapter 12 or 13 case filed by a party other than the debtor.

☞ 2011 Amendment: Subdivisions (4)(i), (j), (k), and (l) are amended to add additional motions which may not be considered on negative notice.
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(E) Motions to Rehear, Reconsider or Reinstate Dismissed Chapter 13 Cases. A motion to rehear, reconsider or vacate an order dismissing a chapter 13 case must be:

- (1) If filed by an attorney, accompanied by a certificate which states that the debtor has tendered to the attorney all funds required to be paid under the debtor's plan to bring the plan current as of the date of the motion and that said funds are in the attorney's trust account; or
- (2) If the debtor is pro se, accompanied by a photocopy of the cashiers check(s) or money order(s), made payable to the chapter 13 trustee, which will be tendered to the chapter 13 trustee by the debtor to bring the plan current if the case is reinstated.

Motions in chapter 13 cases complying with this provision shall be scheduled for hearing before the respective judge at the monthly chapter 13 calendar or, at the judge's discretion, set for hearing on an emergency basis. Motions not in compliance with these provisions will be denied without further notice or hearing.

In addition, a dismissed chapter 13 case shall not be reopened unless the debtor is current under the previously confirmed plan as of the hearing on the debtor's motion to rehear, reconsider or reinstate a dismissed case.

☞ 2011 Amendment: Subdivision (E) is amended to remove references to orders vacating dismissal and replace them with references to orders reinstating the case.

[Comment: See Bankruptcy Rule 1017 and Local Rules 1017-2 (dismissal), 5005-1 (filing and transmittal of papers), and Local Rule 5010-1(D) (reopening chapter 13 cases), and 11 U.S.C. §350 (closing case).]

(F) Expedited Hearings for Certain Motions Filed in Chapter 11 Cases. Subject to Bankruptcy Rule 6003, the motions specified in subdivisions (G), (H), (I), (J), and (K) of this rule filed in a chapter 11 case, shall be filed in accordance with Local Rule 9075-1(A), scheduled for hearing within two business days if reasonably possible, and served, as applicable, pursuant to Local Rules 2002-1(H) or 9073-1(B). If the judge assigned to the case is unable to hear the motions within two business days, the motions shall be scheduled by the clerk, whenever possible, before the judge's designated alternative judge within the required time.

☞ 2011 Amendment: Subdivision (F) of this rule is amended to include a corrected local rule cite to Local Rule 9075-1(A).

(G) Motion Seeking Authority to Use Cash Collateral. A motion seeking authority to use cash collateral pursuant to 11 U.S.C. §363, shall comply with Bankruptcy Rule 4001(b) or (d), and the court's "Guidelines for Motions Seeking Authority to Use Cash Collateral and Motions Seeking Approval of Postpetition Financing".

(H) Motions for Approval of Postpetition Financing. A motion seeking approval of postpetition financing pursuant to 11 U.S.C. §364, shall comply with Bankruptcy Rule 4001(c) or (d), and the court's "Guidelines for Motions Seeking Authority to Use Cash Collateral and Motions Seeking Approval of Postpetition Financing".

(I) Motions for Authority for the Payment of Prepetition Wages. A motion seeking authority to pay employees of the debtor prepetition wages outstanding as of the petition date shall comply with Bankruptcy Rule 6003 and

- (1) include a schedule setting forth:
 - (a) the name of each employee to whom such wages are sought to be paid;
 - (b) the amount due such employee as of the petition date;

- (c) the amounts to be withheld from such wages, including all applicable payroll taxes and related benefits;
 - (d) the period of time for which prepetition wages are due;
 - (e) whether the employee is presently employed by the debtor; and
- (2) identify whether any of the employees constitute insiders as defined in 11 U.S.C. §101(31).

The motion shall also include a representation by the debtor that all applicable payroll taxes and related benefits due to the debtor's employees will be paid concurrently with payment of the wages.

(J) Motions for Authority to Maintain Prepetition Bank Accounts. A motion seeking authority to maintain prepetition bank accounts shall include:

- (1) a schedule listing each prepetition bank account which the debtor seeks to maintain postpetition;
- (2) the amount on deposit in each such account as of the petition date; and
- (3) whether the depository is an authorized depository pursuant to 11 U.S.C. §345(b).

If the debtor is unable to provide the foregoing information, the motion shall set forth the reason why such information is not available, and provide an estimate as to when the debtor shall be able to supplement its motion with such information.

(K) Motions for Authority to Pay Prepetition Claims. A motion seeking authority to pay prepetition claims deemed critical by the debtor shall include:

- (1) a schedule of the names of each claimant;
- (2) the amount due each claimant;
- (3) a description of the goods or services provided to the debtor by each claimant;
- (4) facts and law supporting payment of the prepetition debt under the doctrine of necessity and Bankruptcy Rule 6003; and
- (5) whether the claimant has made any concession or other agreement in consideration for the proposed payment, including the extension of postpetition trade credit.

(L) Utility Service - Adequate Assurance Motion.

- (1) When a Motion is Required.** No motion is required where the trustee or the debtor have reached an agreement with the utility company on the adequate assurance of future payment pursuant to 11 U.S.C. §§366(b) or (c). Where there is no agreement, the trustee or the debtor shall file a motion that complies with the requirements stated in subdivision (2) below seeking a determination by the court that the assurance of payment furnished by the trustee or the debtor constitutes adequate assurance of payment necessary under 11 U.S.C. §§366(b) or (c).
- (2) Content of Motion.** A motion to determine adequate assurance of payment for debtor's utility services shall be filed and served timely so that it may be heard prior to expiration of the applicable time period set forth in sections 366(b) or (c)(2) and include:

 - (a)** a schedule of the names and addresses of the utilities;
 - (b)** a certification that movant's attorney has contacted the utility service provider(s) and made a good faith effort to comply with the requirements under §366, prior to the filing of the motion;
 - (c)** the amount of the assurance payment required or paid and the form of adequate assurance the debtor has offered to furnish; and
 - (d)** any request for an order scheduling a hearing to resolve disputes regarding assurance.
- (3) Objection.** The utility company shall serve a written objection no later than 4:30 p.m. on the second business day prior to the scheduled hearing, or the papers submitted may not be considered at the hearing (except when the hearing is set in less than five days notice). The objection shall set forth the location and account number for the utility service and specify the form and amount of assurance of payment that the utility demands.
- (4) Notice.** The trustee or debtor shall serve notice in compliance with the Bankruptcy Rules and Local Rule 2002-1, and specifically provide notice to any and all employee or representative of the utility company who negotiated the terms and conditions of the adequate assurance of payment.
- (5) Request for Evidentiary Hearing.** Unless otherwise requested, a motion filed in compliance with subdivision (2) above will be scheduled as an evidentiary hearing.

Rule 9013-2. [Note: 9013-2 is a reserved rule number.]

Rule 9013-3. Certificate of Service. The service of motions is governed by this rule, Local Rules 2002-1(A) and 9076-1, and Bankruptcy Rules 7004, 9013 and 9014. Service of motions shall be reflected by the filing of the certificate of service filed in accordance with Local Rule 2002-1(F).

Rule 9014-1. Contested Matters.

(A) Local Rule 7026-1, regarding discovery, is applicable to all contested matters.

(B) In a contested matter, the party to whom a request is directed under Bankruptcy Rules 9014(c) and 7034 must respond in writing within 14 days after being served.

[Comment (A): See also Local Rules 4001-1(G) (discovery in stay relief matters), 5071-1, 9013-1, 9019-1, 9073-1, 9074-1, and 9075-1 (motions and hearings). Comment (B): The 14-day deadline to respond to a document request applies only to contested matters. The deadline to respond to a document request in an adversary proceeding remains as set forth in Federal Rule of Civil Procedure 34(b)(2); see also Local Rule 2004-1(B) (creating a 14-day deadline to respond to document requests made pursuant to Federal Rule of Bankruptcy Procedure 2004).]

☞2011 Amendment: This rule is amended to shorten the time period for response to production of documents in contested matters to 14 days after service.

Rule 9015-1. Pleading and Responding to Jury Trial Demand.

(A) Title of Pleading. If the complaint, answer or other pleading includes a demand for a jury trial, the words “Demand for Jury Trial” shall be included in the title of the pleading.

(B) Deadline to File Statement of Consent. Parties may consent to have a jury trial conducted by a bankruptcy judge under 28 U.S.C. §157(e), by jointly or separately filing a statement of consent within the latter of 14 days of service of a demand for jury trial or, if contained in the complaint, the deadline for filing an answer or other responsive pleading.

Rule 9016-1. Subpoenas for Cases in Other Districts. A subpoena issued under Fed. R. Civ. P. 45 in another district which subsequently requires a compliance determination in this court as provided by Fed. R. Civ. P. 45, shall be initiated by the filing of a miscellaneous proceeding, accompanied by the appropriate filing fee.

☞2013 Amendment: Local Rule 9016-1 includes Interim Local Rule 9016-1 adopted by Administrative Order 13-02, effective December 1, 2013.

Rule 9019-1. Settlement of Matters. If a motion to compromise or settle pursuant to Bankruptcy Rule 9019 is filed on negative notice as otherwise permitted by Local Rule 9013-

1(D)(3)(b), and no opposition to the motion is timely filed with the court, the movant shall file the Local Form "Certificate of No Response or Settlement and Request for Entry of Order" referencing the docket entry of the motion and shall submit a proposed order. If a motion to compromise or settle relates in whole or in part to an adversary proceeding, the motion to compromise or settle pursuant to Bankruptcy Rule 9019 shall be filed in the main bankruptcy case and a notice of the filing of the motion shall be filed in the affected adversary proceeding. If such a motion is granted in the main bankruptcy case, in addition to submitting a proposed order for entry in the main bankruptcy case granting the motion to compromise or settle, counsel for the movant shall submit a proposed order or judgment for entry in the adversary proceeding resolving the adversary proceeding consistent with the approved compromise or settlement, and such order or judgment shall include a direction to the clerk to close the adversary proceeding, if appropriate. Any stipulation to settle an adversary proceeding or contested matter with a pro se debtor must be set for hearing.

☞2011 Amendment: This rule is amended to relocate provisions from former Local Rule 9071-1 and to provide for manner of filing when a 9019 motion affects an adversary proceeding, to set forth requirements for submission of orders on a 9019 motion and to require that stipulations settling adversary proceeding or contested matter with pro se debtor require a hearing.

Rule 9019-2. Mediation.

(A) Registration of Mediators.

- (1) Mediation Register.** The clerk shall establish and maintain a register of qualified attorneys and retired federal and state judges who have registered to serve as mediators in adversary proceedings and contested matters in cases pending in the court. Attorneys and retired federal and state judges who meet the qualifications described in subdivision (2) shall be so registered. This subdivision shall not preclude an individual from serving as a mediator if the parties to the dispute agree upon the selection of that mediator. However, a mediator selected by the parties and not registered under this rule nonetheless shall comply with the other provisions of this rule where applicable.
- (2) Qualifications of Mediator.** To qualify for service as a mediator under this rule, a mediator must:
 - (a)** be an active member of The Florida Bar and qualified to practice in this court or be a retired federal or state judge;
 - (b)** have been admitted to practice in a state or federal court for at least the past 5 years or be a retired federal or state judge;

- (c) have completed a minimum of 40 hours in a circuit court mediation training program certified by the Florida Supreme Court or be certified by the Florida Supreme Court as a circuit court mediator; and
 - (d) agree to accept at least 2 mediation assignments per year in cases where at least one party lacks the ability to compensate the mediator, in which case the mediator's fees shall be reduced accordingly or the mediator shall serve pro bono if no litigant is able to contribute compensation.
 - (3) **Procedures for Registration.** Each attorney or retired federal or state judge who wishes to be included on the register must file the Local Form "Verification of Qualification to Act as Mediator".
 - (4) **Removal from Register.** The clerk shall remove a mediator from the register of mediators at the mediator's request or at the direction of a majority of the judges of the court in the exercise of their discretion. If removed at the mediator's request, the mediator may later request to be added to the register by submitting a new verification form. Upon receipt of such request, the clerk shall add the qualified mediator to the register.
 - (5) **Mediator's Oath.** Every mediator shall take the oath or affirmation prescribed by 28 U.S.C. §453, before serving as a mediator. The oath may be administered by any person authorized to administer oaths, and proof of the oath or affirmation shall be included on the Local Form "Verification of Qualification to Act as Mediator".
 - (6) **Compensation of Mediators.** Mediators shall be compensated at the rate set by the U.S. District Court for the Southern District of Florida, and as adopted by this court by local rule or administrative order or at such rate as may be agreed to in writing by the parties and the mediator selected by the parties. Absent agreement of the parties to the contrary, the cost of the mediator's services shall be borne equally by the parties to the mediation conference, but a case trustee's or debtor in possession's share of the cost shall be an expense of the estate.
- (B) **Referral of Matters to Mediation.**
- (1) **Manner of Referral.** The court may order the assignment of a matter or proceeding to mediation at a pretrial conference or other hearing, upon the request of any party in interest or the U.S. Trustee, or upon the court's own motion. The court shall use the Local Form "Order of Referral to Mediation", which shall: (a) designate the trial or hearing date, (b) direct that mediation be conducted not later than 14 days before the scheduled trial or hearing, and (c) require the parties to agree upon a mediator within seven days after the date of the order. The parties shall timely file the Local Form "Notice of Selection of

Mediator”, failing which the clerk shall designate a mediator from the clerk’s register on a random basis within court divisions using the Local Form “Notice of Clerk’s Designation of Mediator” and serve this notice on the required parties. Notwithstanding the assignment of a matter or proceeding to mediation, the court shall set such matter or proceeding for trial final hearing, pretrial conference or other proceeding as is appropriate in accordance with the Bankruptcy Rules and these rules.

- (2) **Disqualification of Mediator for Cause.** Any person selected as a mediator may be disqualified for bias or prejudice as provided in 28 U.S.C. §144, and shall be disqualified in any action in which the mediator would be required to do so if the mediator were a judge governed by 28 U.S.C. §455.
- (3) **Replacement of Mediator.** If any party to the mediation conference, for any reason, objects to the designated mediator, then within three business days from the date of the notice of designation, the objecting party shall file with the clerk, and serve upon the mediator and all other parties to the mediation, a request for an alternate mediator including in the request the name of any alternate mediator already agreed upon by the parties. If the alternate mediator has been agreed upon, the clerk shall designate that mediator. Otherwise, the clerk shall designate a second mediator from the register of mediators on a random basis and shall serve a second notice of designation on all parties to the mediation conference and on the designated mediator. Each party shall be entitled to one challenge to any clerk-designated mediator. A mediator who is unable to serve shall, within seven days from the date of the notice of designation, serve on the clerk and all parties to the mediation a written notice of inability to serve, and the clerk shall designate an alternate mediator in the manner described above.
- (4) **No Stay.** Notwithstanding a matter being referred to mediation, discovery and preparation for trial or final hearing shall not be stayed by mediation.
- (5) **Types of Cases Subject to Mediation.** Any adversary proceeding or contested matter may be referred by the court to mediation.

(C) **Mediation Conference.**

- (1) **Notice and Procedures.** Upon consultation with the parties and their attorneys, the mediator shall fix a reasonable time and place for the mediation conference, except as otherwise agreed by the parties or by order of the court, and shall give the parties at least 14 days’ advance written notice of the conference. The conference shall be set as soon after the entry of the mediation order and as far in advance of the final evidentiary hearing as practicable. In keeping with the goal of prompt dispute resolution, the mediator shall have the duty and

authority to establish the time for all mediation activities including a deadline for the parties to act upon a settlement or upon mediated recommendations.

- (2) **Attendance of Parties Mandatory.** An attorney who is responsible for each party's case shall attend the mediation conference. Each individual party and the representatives of each non-individual party shall appear with the full authority to negotiate the amount and issues in dispute without further consultation. The mediator shall determine when the parties are to be present in the conference room. No party can be required to participate in a mediation conference for more than two hours.
- (3) **Public Entity as Party.** If a party to mediation is a public entity, either a federal agency or an entity required to conduct its business pursuant to Chapter 286, Florida Statutes, that party shall be deemed to appear at a mediation conference by the physical presence of a representative with full authority to negotiate on behalf of the entity and to recommend settlement to the appropriate decision-making body of the entity.
- (4) **Failure to Attend.** The mediator shall report to the court willful failure to attend the mediation conference or to participate in the mediation process in good faith, which failure may result in the imposition of sanctions by the court.

(D) **Recommendations of Mediator.** The mediator shall have no obligation to make any written comments or recommendations other than the report required by subdivision (E). If a written recommendation is prepared, no copy shall be filed with the court.

(E) **Post-Mediation Procedures.** Within seven days after the mediation conference, the mediator shall file with the court a report showing compliance or non-compliance by the parties with the mediation order and the results of the mediation, using the Local Form "Report of Mediator". In the event there is an impasse, the mediator shall report that there is a lack of agreement, and shall make no further comment or recommendation. If the parties have reached an agreement regarding the disposition of the matter or proceeding, they shall prepare and submit to the court within 14 days after the filing of the mediator's report an appropriate stipulation of settlement and joint motion for its approval. Failure to file such a motion shall be a basis for the court to impose appropriate sanctions. If the mediator's report shows mediation has ended in an impasse, the matter will be tried as scheduled.

(F) **Confidentiality.** Conduct or statements made in the course of mediation proceedings constitute "conduct or statements made in compromise negotiations" within the meaning of Rule 408 of the Federal Rules of Evidence, and no evidence inadmissible under Rule 408, shall be admitted or otherwise disclosed to the court.

(G) **Withdrawal from Mediation.** Any action or claim referred to mediation pursuant to this

rule may be exempt or withdrawn from mediation by the presiding judge at any time, before or after reference, upon motion of a party and/or a determination for any reason that the case is not suitable for mediation.

(H) Compliance with Bankruptcy Code and Rules. Nothing in this rule shall relieve any debtor, party in interest, or the U.S. Trustee from complying with any other orders of the court, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules.

Rule 9021-1. Judgments and Orders - Entry of.

(A) Generally. The clerk will enter all the court's orders, decrees and judgments in CM/ECF which is the docket entry required of the clerk under Bankruptcy Rules 5003 and 9021. Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding. Where the clerk is directed to serve notice, transmitting the NEF or, if applicable, service through the BNC or U.S. Mail constitutes the notice required under Bankruptcy Rule 9022. Parties directed to serve notice by the court must file a certificate of service filed in accordance with Local Rule 2002-1(F).

(B) Judgment. Judgments shall conform to the requirements of Local Rule 9072-1. Every judgment shall contain the name and mailing address of the judgment creditor and, to the extent practicable, shall state the last four digits of the social security number or other individual taxpayer identification number of the judgment debtor.

[Comment: Conforms to 1993 Florida statute requiring this information on all judgments to be recorded as liens and 28 U.S.C. §1962 (state law governs judgment lien) except that only the last four digits of the social security or other individual taxpayer identification number shall be provided in accordance with the federal judiciary privacy policy.]

(C) Notification to Clerk of Matters Under Advisement. If any order on any contested matter or ruling after trial has been under advisement for more than 90 days, upon written notification and request sent to the Clerk of Court by any party in interest, the clerk or the clerk's designees shall send to the court and to all parties a "Notification of Matter Under Advisement for 90 Days". The clerk shall not file the request in the court file nor indicate the identity of the party making the request. When the court receives such notification, it shall set the matter for hearing within 30 days of receipt of the notification or shall issue an order resolving the matter during that same 30 day period.

Rule 9027-1. Removal; Deadline for Motion to Remand. Motions for remand after removal of a case, proceeding, or civil action, must be filed not later than 21 days after removal.

Rule 9036-1. Notice By Electronic Transmission.

(A) For Registered Users of CM/ECF.

- (1) Electronic Appearances.** Filing a document in CM/ECF for the first time (except for filing a proof of claim or ballot) is that registered user's electronic notice of appearance in that case or proceeding only. However, if a party has previously conventionally filed a notice of appearance or request for notice in a main case or proceeding prior to becoming a CM/ECF registered user, it is not necessary to enter an electronic appearance in such main case or proceeding.
- (2) Notice Provided Registered Users.** Every registered user who has made an electronic appearance in a specific case will automatically be sent an NEF (or Daily Summary Report-DSR) for each electronic entry in the case to the current e-mail address provided to the court. If a PDF document is attached to that NEF, the registered user will be able to view the document once at no charge for a period of 15 days from the date the document is entered on the docket. Subsequent access to that document or any other docketed items in CM/ECF cases will be available through PACER which provides electronic access to publicly filed electronic documents at the published fees or at the public computer terminals in each divisional clerk's office.
- (3) Withdrawal of Electronic Appearance.** A registered user seeking to withdraw an electronic appearance in a specific case or adversary proceeding must comply with Local Rule 2091-1.

(B) Electronic Notice in Lieu of Paper Notice from the BNC. Conventional filers and those registered users who have not yet made an electronic appearance in a specific case will receive notices generated by the clerk and served through the BNC in paper form unless they have contacted the BNC and registered to receive notices electronically in lieu of regular mail service.

Rule 9070-1. Exhibits.

(A) Preparation for a Hearing or Trial. Exhibits must be pre-marked prior to the commencement of any hearing or trial. Plaintiff/movant and defendant/respondent exhibits shall be identified by corresponding exhibit tags. Plaintiff(s)' exhibits shall be marked numerically and defendant(s)' exhibits shall be marked alphabetically. Exhibits shall be accompanied by the Local Form "Exhibit Register", and copies of the register and all exhibits should be submitted for each party and the judge. Unless directed by the court, exhibits shall not be filed with the clerk of court.

(B) Oversized Exhibits. Any physically large exhibit unsuitable for storage at the court shall

be returned to the party introducing it for retention until the matter is no longer subject to appellate review. Parties receiving such exhibits shall be responsible for producing them if required for an appellate record or for review by interested parties.

(C) Temporary Release of Exhibits. No exhibit received in evidence will be released from the court during the evidentiary proceedings without an order of court, except as provided in subdivision (B) of this Rule. Upon the entry of an order, the party to whom the exhibit is to be released shall prepare a receipt, precisely describing the exhibit and its corresponding number, for temporary release. The receipt must be signed by the attorney or other court-approved agent receiving the exhibit.

(D) Withdrawal or Disposal Upon Finality. After a matter is no longer subject to appellate review an exhibit may be returned to the party offering it without court order upon a written request stating that no appeal is pending and the case or proceeding is final. The requesting party shall furnish the clerk with an adequately sized, self-addressed, stamped envelope or shall make other appropriate arrangements for return of the exhibit. Any exhibit not returned within 30 days after a matter is no longer subject to appellate review may be destroyed or otherwise disposed of by the clerk without further notice.

Rule 9071-1. [Note: 9071-1 is a reserved rule number.]

☞ 2011 Amendment: This rule is abrogated to reflect relocation of settlement provisions to Local Rule 9019-1.

Rule 9071-2. Referral of Pro Se Parties to Pro Bono Representation. In any adversary proceeding in which a party is proceeding pro se and the court finds either that, in the case of a pro se debtor defendant there is a reasonable doubt as to the validity of the creditor’s claim, or in the case of any other pro se party, that the party would likely qualify for pro bono representation, the court will refer the party to the pro bono committee of the Bankruptcy Bar Association of the Southern District of Florida for the purpose of obtaining pro bono representation in a trial of the adversary proceeding.

Rule 9072-1. Orders - Proposed. Registered Users shall submit proposed orders and judgments to the judge in electronic format using the E-Orders program in CM/ECF, or in word processing format to an electronic mailbox designated by the court in accordance with the court’s “Guidelines for Preparing, Submitting and Serving Orders”. Conventional filers shall conform to the format requirements set forth in the “Guidelines” when submitting proposed orders and judgments in paper. Notwithstanding this provision, proposed orders submitted pursuant to Local Rule 5005-1(G)(1)(b), which requires parties in matters set for hearing on an emergency basis to bring proposed orders to court hearings, shall continue to be brought to the hearings and submitted conventionally. Conventionally signed orders will be converted to electronic format and docketed by the clerk.

[Comment: See Local Rules 5005-1(G) (submittal and service of proposed orders) and 9021-1 (judgments), and Bankruptcy Rules 7054 and 9021 (judgments).]

Rule 9073-1. Hearings.

(A) Preparation of Notice of Hearing. For any paper filed requiring a hearing, the clerk will prepare a notice of hearing and return it to the party required to serve the notice under the federal or local rules, either electronically via the NEF or by mail from the BNC, depending on whether the attorney for the movant is a registered user who has filed an electronic notice of appearance in the case or proceeding.

(B) Service and Filing of Notice of Hearing. The movant must immediately serve the notice of hearing upon the same parties served with the motion. The movant shall also file, not later than two business days after service of the notice of hearing, a certificate of service for that notice of hearing as required under Local Rule 2002-1(F). A request for relief as to which a notice of hearing is not timely served or a certificate of service timely filed may be denied sua sponte by the court without further notice or hearing.

(C) Self-Calendaring of Certain Matters. The court has issued guidelines for self-calendaring. Attorneys and trustees who self-calendar hearings must serve notice as required by paragraph (B) of this rule. If the self-calendaring option is used to schedule a hearing on a motion for relief from stay, and the next available hearing date is scheduled beyond the 30 or 60 day provisions set forth in 11 U.S.C. §362(e), the movant will be deemed to have consented to voluntarily extending the deadline to the date of the next available calendar.

(D) Conference With Opposing Attorneys Required. If a motion seeks relief involving a debtor that is represented by an attorney, the trustee, or another particular adverse party that is represented by an attorney, the certificate of service for the notice of hearing shall include a certification that movant's attorney has contacted counsel for all adverse parties to attempt to resolve the matter without hearing.

[Comment: See also Bankruptcy Rule 9011 (effect of signature) and Local Rules 7026-1(E) (motions to compel discovery) and 9076-1 (electronic service).]

☞ 2011 Amendment: Subdivision (D) of this rule is amended to clarify that counsel need not confer with an unrepresented party prior to serving notice of hearing.

Rule 9074-1. Appearance by Telephone.

(A) General Eligibility Requirements. Unless the judge otherwise specifically directs, the appearance by telephone procedure in this rule is available only to parties who are not

residents of the county in which the hearing is scheduled. For attorneys, residence shall mean the county in which the appearing attorney's law office is located.

(B) Restrictions. Telephone hearings will not be permitted for (1) evidentiary hearing; and (2) matters scheduled on a regular Chapter 13 calendar. When a land line is available, parties will not be permitted to appear by cellular telephone except with specific permission from the court.

(C) Procedure. Parties requesting to participate in hearings by telephone must contact the judge's calendar clerk at least two business days prior to the date of the hearing. Telephone hearings may be deferred by the judge to the end of the hearing calendar, so the party must remain available for the court's call from the scheduled hearing time until the end of the day's hearing calendar. The court generally will not postpone the hearing because of the party's unavailability or telephonic transmission problems.

Rule 9075-1. Emergency Motions. If a motion or other paper requests an emergency hearing, the title of the motion or paper shall include the words "Emergency Hearing Requested". Any motion or paper requesting an emergency hearing shall set forth with particularity, under a separate heading in the text:

(A) the reason for the exigency and the date by which movant reasonably believes such hearing must be held; and

(B) a certification that the proponent has made a bona fide effort to resolve the matter without hearing.

Emergency hearings shall be held only where direct, immediate and substantial harm will occur to the interest of an entity in property, to the bankruptcy estate, or to the debtor's ability to reorganize if the parties are not able to obtain an immediate resolution of any dispute.

[Comment: See also Local Rules 5005-1(B) (papers to be filed with clerk, not court) and 5005-1(F)(2) (emergency submittal of papers).]

Rule 9076-1. Electronic Service.

(A) Registered Users Consent to Waiver of Non-Electronic Service. Registered users (1) waive the right to receive notice by first class mail and consent to receive notice electronically via the CM/ECF generated NEF; and (2) waive the right to service by personal service or first class mail and consent to electronic service via the NEF, except with regard to service of a summons and complaint under Bankruptcy Rule 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Bankruptcy Rule 9022.

(B) Electronic Appearance in that Case Constitutes Consent. Consent to electronic service becomes effective in a particular case when a registered user files a document that generates an NEF (except a proof of claim or ballot).

(C) Elimination of Duplicate Noticing. To reduce noticing costs and unnecessary duplication of service, registered users who are served with an NEF will not receive duplicate notice served via the BNC except for the §341 notice of commencement of case. This elimination of duplicate noticing will also apply to those registered users who have separately entered into an agreement for e-mail or fax service with the BNC. Registered users receiving notice under this rule shall have access to electronic dockets and case documents as provided under Local Rule 9036.

Note: Chapter 7 and 13 trustees are automatically added at case initiation and therefore always will receive service via the NEF; thus conventional filers need not serve a paper copy of a document on a trustee.

(D) Certificate of Service Required. As provided by subdivision (A) and (B) of this Rule, service may occur via the NEF (in lieu of service by U.S. Mail) for certain registered users in the case (absent a specific statutory or court requirement for conventional paper service), however, all certificates of service must comply with Local Rule 2002-1(F).

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