



LOCAL RULES

Effective 12/01/2020

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF FLORIDA

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Joseph Falzone

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

(Effective 12/01/2020)

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LOCAL RULES
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF FLORIDA
(Effective 12/01/2020)

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.

(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.
- (14) “EBN” is an acronym for Electronic Bankruptcy Noticing which permits any party filing conventionally to receive clerk-served notices electronically via the BNC instead of by U.S. Mail. Parties register for EBN directly with the BNC, not with the court.
- (15) “DeBN” is an acronym for Debtor Electronic Bankruptcy Noticing which permits debtors to receive clerk-served notices and court orders electronically via the BNC instead of by U.S. Mail. Debtors register for DeBN directly with the clerk of court by filing the Local Form “Debtor’s Request to Receive Notices Electronically Under DeBN Program”.
- (16) “**CHAPTER 13 CONSENT CALENDAR**” means a “Consent Calendar” conducted by a Standing Chapter 13 Trustee at which time plan confirmations, motions, objections, and other properly noticed matters may be announced as resolved by agreement, consent, or that the same are uncontested.
- (17) “ESI” is an acronym for Electronically Stored Information.

[Comment: See Local Rule 5005-1(G)(1)(d) regarding the form of orders submitted in respect of matters heard on the Chapter 13 Consent Calendar.]

[Comment: See also Local Rule 2004-1 (Examination of Debtors, and Others). ESI - fully defined in Rule 34 of Fed. Rule of Civ. Prop. – applies to the writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations – stored in any medium from which information can be obtained either directly or, if necessary, after translation by a responding party to a request for production.]

 2020 Amendment: *Local Rule 1001-1(F) defines Chapter 13 Consent Calendar and creates a new Section (16) to Local Rule 1001-1(F).*

2020 Amendment: Local Rule 1001-1(F) is amended to define Electronically Stored Information (ESI) and create a new Section (17). The term electronically stored information is introduced to the local rules through the amendment to local rule 2004-1.

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";
- (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)** be accompanied by an Official Bankruptcy Form "Statement About Your Social Security Numbers" verified in accordance with Local Rule 9011-4(C).

[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), 9011-1 (signatures and document retention) and 9011-4 (identification and certification of Attorney; and verification of debtor's social security number), 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).]

Rule 1003-1. Involuntary Petitions.

- (A) **Petition Requirements.** Each involuntary petition must comply with requirements set forth in the "Clerk's Filing Instructions".
- (B) **Joint Debtors.** An involuntary petition shall not be filed against joint debtors.
- (C) **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, 9011-4 (format requirements), 2090-1(C) (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 1004.1-1. Filing on Debtor's Behalf by a Court-Appointed Representative, Holder of Power of Attorney, or Proposed Guardian Ad Litem.

- (A) **Filing of a Petition by a Court-Appointed Representative. Appointment Instrument Required.** If a bankruptcy petition is filed on a debtor's behalf by a representative, such as a guardian, conservator, or like fiduciary, appointed by a court of competent jurisdiction before the filing of the petition, a copy of the appointment instrument shall be filed with the petition.

(B) Filing of a Petition by the Holder of a Power of Attorney or Next Friend.

- (1) Power of Attorney and Declaration Required.** A petition filed by the holder of a power of attorney or next friend (the "Filing Party") under Bankruptcy Rule 1004.1 must be accompanied by a copy of the power of attorney, if any, and the Filing Party's declaration under penalty of perjury ("Declaration"). The Filing Party shall serve a copy of the petition and the Declaration on the debtor, any other party required to be served by the instrument which authorized the Filing Party to file the petition, all creditors, the U.S. Trustee, any governmental entity from which the debtor is receiving funds, and the debtor's closest relative, if known. The Declaration and any attachments must be filed as non-public "restricted documents."
- (2) Contents of Declaration.** The Declaration must include the following information:
- (a)** the Filing Party's name, address, and relationship to the debtor;
 - (b)** whether a representative was appointed for the debtor under nonbankruptcy law before the petition was filed;
 - (c)** if applicable, whether the power of attorney expressly authorizes the filing of a bankruptcy petition, and whether the debtor was a minor or has been adjudicated an incompetent person prior to the date of the power of attorney;
 - (d)** whether the debtor consents to the filing of the petition;
 - (e)** the reason for filing the bankruptcy petition;
 - (f)** if applicable, why the debtor is unable to file the petition himself or herself or otherwise unable to manage his or her financial affairs;
 - (g)** whether any of the debtor's debts were incurred for the benefit of the Filing Party; and
 - (h)** the names and addresses of any persons known to the Filing Party who may object to the filing of the petition on debtor's behalf.

(C) Appointment as Guardian Ad Litem

- (1) Motion Required.** Any person who seeks appointment as the debtor's guardian ad litem in a bankruptcy case must file a motion seeking such appointment, accompanied by a proposed order and the Declaration required by subsection (C)(2), below.

(2) Required Disclosures and Documents.

- (a)** Any person seeking appointment as the debtor's guardian ad litem in a bankruptcy case, must file a Declaration providing the following information:
- (i)** why appointment of the movant as guardian ad litem is necessary;
 - (ii)** why appointment of the movant as guardian ad litem would be in the debtor's best interest;
 - (iii)** the fee, if any, the movant would charge the debtor for serving as guardian ad litem;
 - (iv)** the movant's professional and criminal history, if any;
 - (v)** the movant's competence to handle the debtor's financial affairs, including the movant's knowledge of the debtor's financial affairs;
 - (vi)** whether the movant has any current or potential future interest in the debtor's financial affairs, other than the proposed fee; and
 - (vii)** the names and addresses of any persons known to the movant who may object to the appointment of the movant.
- (b)** If appointment as the debtor's guardian ad litem in the bankruptcy case is sought on behalf of an incompetent person, the Declaration must be accompanied by the following documents:
- (i)** a letter from the debtor's physician regarding the debtor's ability to conduct the debtor's own financial affairs; and
 - (ii)** a copy of any power of attorney or other document giving the movant the authority to act for the debtor.
- (c)** Any motion seeking appointment as the debtor's guardian ad litem in a bankruptcy case filed pursuant to subsection (C)(2)(a) of this rule will be set for hearing within 14 days of filing.

- (3) Authority to Act for Debtor Pending Appointment of Guardian Ad Litem.** Until entry of an order appointing the movant as the debtor's guardian ad litem in the

bankruptcy case, unless the court orders otherwise the movant shall take no further action in the bankruptcy case on the debtor's behalf, other than seeking an extension of time with respect to any required action of or filing by the debtor.

☞ 2020 Amendment: Local Rule 1004.1-1 establishes procedures for the filing of voluntary petitions by court-appointed representatives, holders of powers of attorney, or proposed guardians ad litem. This rule – modeled after Middle District of Florida Bankruptcy Court Local Rule 1002-1 – specifies the information and documents that must be filed in support of a motion or in response to an order to show cause. In all cases, the Court will schedule a status conference to consider the filing party's authority to file the case on the debtor's behalf and the dismissal of the case if the listed requirements are not met).

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 for Individuals to Pay the 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)(3) 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.

(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) **Denial of Application by Clerk. Referral of Application to Court.** If the requirements of subdivision (A)(2) are not complied with at the time of filing of the application , unless a motion setting forth justification as to why the debtor is unable to comply with one or more of these requirements accompanied the filing of the application, the clerk shall not approve the application pursuant to subdivision (A)(2) of this rule. Instead, the clerk is authorized to enter an order denying application on behalf of the court. If the application was accompanied by a motion to waive requirements of subdivision (A)(2), 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 to Have the Chapter 7 Filing Fee Waived" 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 11, 12 or 13, the debtor shall pay, as applicable, the full chapter 11, 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) 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 subdivision (D) of this Rule.

[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).]

(C) Local Form Must Accompany Filing of Schedules. If Schedules D, and E/F were not filed with the petition, Local Form “Debtor’s Notice of Compliance with Requirements for Amending Creditor Information” is required when Schedules D, and E/F are filed or the case may be dismissed.

(D) Consumer Credit Counseling.

(1) Requirement of Debtor to Complete Part 5 of the Voluntary Bankruptcy Petition Regarding Consumer Credit Counseling Requirement. Individual debtors must comply with credit counseling requirements under 11 U.S.C. §§109(h) and 521(b), and Bankruptcy Rule 1007(b)(3), and indicate the debtor’s status by completing Part 5 of the Official Bankruptcy Form “Voluntary Petition for Individuals Filing for Bankruptcy”.

(2) Failure to Comply with Consumer Credit Counseling Requirements.

(a) Failure to File Credit Counseling Certificate. If the debtor fails to complete Part 5 of the individual petition or checks the first box indicating credit counseling was received 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 the second box of Part 5 of the voluntary petition is checked indicating that credit counseling was received but the debtor does not have a certificate, 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 the third box of Part 5 of the voluntary petition is checked indicating that the debtor was not able to obtain credit counseling due to exigent circumstances and does not attach to the voluntary petition a separate sheet explaining what efforts the debtor made to obtain the briefing, why the debtor was unable to obtain it before filing for bankruptcy, and what exigent circumstances required the debtor to file this case, the case may be dismissed without further notice or hearing.

- (c) **Failure to File a Motion for Waiver of Credit Counseling Requirement.** If the fourth box of Part 5 of the voluntary petition is checked and indicates the reason the debtor is eligible for waiver of the credit counseling requirement and the voluntary petition is not accompanied by the required motion for waiver of credit requirement the case may be dismissed without further notice or hearing.

(E) **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).

(F) **Requests for Copies of Debtor's Tax Information** - Requests for copies of the debtor's tax information under 11 U.S.C. §521 or for individual debtors under 11 U.S.C. §1116(1)(A), shall be made in accordance with the Administrative Office of the United States Courts "Director's Guidance Regarding Tax Information Under 11 U.S.C. §521" and any subsequent directives issued. This document is posted on the court website (see Guide to Judiciary Policy Vol. 4: §830). 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" and Local Rule 5005-1(A)(2) (compliance with federal judiciary privacy policy).]

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 to summaries, 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.

(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.

(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 About Your Social Security Numbers" 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 About

Your Social Security Numbers”, 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 About Your Social Security Numbers”) 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. As provided under local rule 9011-4(C), Official Bankruptcy Form “Statement About Your Social Security Numbers” will be entered on the court docket as a separate, non-public “restricted” document to preserve the Privacy Policy.

(D) Amendments to Schedules, Statements and Lists.

- (1) Amendments to Creditors’ Information Must Be Accompanied by Required Forms.** Either Official Bankruptcy Form “Declaration About an Individual Debtor’s Schedules” or Official Bankruptcy Form “Declaration Under Penalty of Perjury for Non-Individual Debtors,” as applicable shall accompany any paper required by Bankruptcy Rule 1007 or 1009. 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” is required when filing any postpetition schedule, amended schedule, or list of creditors. The requirement to file Local Form “Debtor’s Notice of Compliance with Requirements for Amending Creditor Information” does not apply when corrections to creditor mailing addresses submitted by the debtor or debtor’s attorney using either a “Bypass Notice” or “Notifications of Returned Mail” form provided by the BNC for use in changing or correcting creditors’ mailing address information deemed to be “undeliverable” by the BNC. Failure to file Local Form “Debtor’s Notice of Compliance with Requirements for Amending Creditor Information” or either Official Bankruptcy Form “Declaration About an Individual Debtor’s Schedules” or Official Bankruptcy Form “Declaration Under Penalty of Perjury for Non-Individual Debtors,” as applicable when required may result in the

- (2) required schedules (along with all other documents filed with them) being stricken and the case being dismissed without further notice or hearing.
- (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. A certificate of service must be filed in compliance with Local Rule 2002-1(F).
- (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. The clerk will generate and docket the summons in an involuntary case and electronically transmit it to the petitioner(s) via the BNC or via the NEF (for registered users who have appeared in the case). 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.

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 or Transfer; Substantive Consolidation.

(A) Joint Administration or Transfer.

(1) Motion.

(a) Where Filed. 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) 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 related chapter 11 cases shall be considered by the court pursuant to Local Rule 9013-1(D)(4)(i), and in accordance with Local Rule 9073-1.
- (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)(i), and in accordance with Local Rule 9073-1.
- (3) **Local Form Order Required.** A proposed order jointly administering a case shall conform to the applicable local form order jointly administering cases.
- (4) **Filing Papers in Cases with Pending Motions for Joint Administration of Non-Individual Chapter 11 cases.** Pending determination of a motion for joint administration of cases where all debtors subject to the motion are non-individual chapter 11 debtors, parties in interest shall file documents (other than claims) in the case requested in such motion to be designated the lead case as though the motion has been granted.
- (5) **Manner of Joint Administration.** Jointly administered cases shall be administered as follows:
- (a) **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".
- (b) **Caption.** Court papers filed after joint administration shall be captioned as provided in Local Rule 9004-2.
- (c) **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". If docketing prior to entry of the order for joint administration commenced under (A)(4) and the motion is subsequently denied, any intervening document filed and docketed in the presumed lead case shall not be redocketed in the intended "member" case. Instead, the clerk shall annotate the member case docket to reflect that papers filed during the

pendency of the motion and docketed in the presumed lead case are deemed filed in the intended case as of the date originally filed and shall remain under case number (presumed lead case) and shall not be redocketed.

- (d) **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.
- (e) **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.

(B) Substantive Consolidation. Court papers filed after substantive consolidation shall be styled as provided in Local Rule 9004-2. Any proof of claim filed and docketed prior to the consolidation 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 entry of the order reinstating the case.

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, and subject to subdivisions (D) and (E) of this rule, 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).

(D) Disposition of Funds by Chapter 12 Trustee Upon Conversion of Case. Upon the conversion of a case under chapter 12 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) Disposition of Funds by Chapter 13 Trustee Upon Conversion of Case to Chapter 7. Upon the conversion of a case under chapter 13 of the Bankruptcy Code to chapter 7, the trustee shall dispose of funds remaining after payment to the trustee of approved fees and costs, subject to provisions of subdivisions (F) and (G) of this rule, as follows:

- (1) if the conversion occurs pre-confirmation, distribute the balance of the funds to the debtor after first paying
 - (a) any funds held by the chapter 13 trustee in trust in accordance with any vesting order entered in the case; and
 - (b) any unpaid claim allowed under 11 U.S.C. §503(b).
- (2) if the conversion occurs post-confirmation, distribute the balance of the funds to the debtor after first paying.
 - (a) any administrative creditor that the debtor has directed the chapter 13 trustee pay in accordance with an assignment valid under applicable non-bankruptcy law or other written direction signed by the debtor which assignment or written direction must be filed after the notice of conversion has been filed but no later than seven days after the notice of conversion has been filed; and
 - (b) to secured creditors any funds that are being held in trust for such secured creditor in accordance with a court approved vesting order.
- (3) During the 90 days following the notice of conversion, the trustee shall not distribute any funds that are needed to cover checks issued by the trustee before the notice of conversion was filed. Any checks returned during the 90 day period may not be reissued by the trustee except in accordance with 11 U.S.C. §1326(a)(3), and if there are any checks still unnegotiated 90 days after the notice of conversion was filed the trustee must put a stop payment on those checks.

(F) Temporary Retention of Funds by Chapter 13 Trustee Upon Conversion by Notice of Conversion. Upon the debtor's filing of a notice of conversion pursuant to 11 U.S.C. §1307(a), and for the purposes of determining what funds are to be turned over to the trustee in the converted case, the chapter 13 trustee shall continue to hold the funds not yet distributed, and not needed to cover outstanding checks, for a period not to exceed 30 days, unless extended by court order, or pending resolution of any motion filed in accordance with subdivision (G) of this rule.

(G) Objection Motions Relating to the Notice to Convert. Any party in interest, including a chapter 7 trustee in the converted case, but not the chapter 13 trustee, shall have 14 days from the filing of the notice of conversion to file either of the following motions (the "objection motions") in the chapter 7 case:

- (1) a motion to determine whether the conversion was in bad faith such that all funds held by the chapter 13 trustee that would otherwise be returned to the debtor should be turned over to the chapter 7 trustee, or

- (2) a motion to determine whether any or all of the funds held by the chapter 13 trustee were derived from a source other than the debtor's postpetition wages.

If no objection motion is filed, then the chapter 13 trustee shall distribute the funds in accordance with subdivision (E) of this rule. If an objection motion is filed the funds will be distributed as ordered by the court.

(H) Extension of Chapter 13 Trustee Final Report Deadline. If an objection motion is filed, the deadline for the chapter 13 trustee to file a final report in accordance with Bankruptcy Rule 1019(5)(B)(ii) shall be extended until 30 days after the hold period expires or such later date as the court orders.

(I) 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).

(J) 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 70 days from the date of the post-conversion meeting. This deadline shall be subject to modification, as applicable, by the provisions of subdivisions (I) or (J)(2) of this rule, and Local Rules 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.

(K) 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).

(L) Filing of Chapter Applicable Official Bankruptcy Forms 122A-1, 122A-1Supp, 122A-2, 122B, 122C-1, and 122C-2 Upon Conversion of Case. Individual debtors converting to another chapter shall file any Official Bankruptcy Forms numbered 122A-1, 122A-1Supp, 122A-2, 122B, 122C-1, and 122C-2 that are applicable to the chapter the case is being converted to within 14 days of entry of the conversion order.

[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 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 first address listed by the debtor on the petition is located; or
- (2)** if the debtor is a non-individual, to the division where the principle place of business address listed by the debtor on the petition is located.

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(A) (addressing judicial assignment of cases and joint administration or transfer and 1071-1 (divisions of court).]

(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 or disqualified shall be reassigned by the clerk:

- (a) first to another judge resident in the same division, or
 - (b) to another division if the judge being recused or disqualified is the only resident judge in that division.
- (3) 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 cases with individuals and their spouses, whether filed jointly or severally; and
 - (b) cases that may be jointly administered pursuant to Bankruptcy Rule 1015.
- (4) 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 action.

[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 Required by 11 U.S.C. §342(b) for Individuals Filing for Bankruptcy" .

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 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 Local Form "Chapter 13 Plan" filed by the debtor or debtor's counsel must be served as follows:
- (a) **Plan filed with Petition.** If the plan is filed with the voluntary petition, the clerk must mail copies of the plan to the trustee, all creditors, and interested parties along with the Official Bankruptcy Form Notice of Chapter 13 Bankruptcy Case containing the time fixed for filing objections to and the hearing to consider confirmation of the plan.
- (b) **Plan filed after Petition.** If the plan is filed on a date after the date on which the voluntary petition is filed, the debtor's attorney or clerk, if the debtor is pro se, must serve a copy of the plan with the Official Bankruptcy Form Notice of Chapter 13 Bankruptcy Case on the trustee, all creditors, and interested parties, and file a certificate of service. The attorney for the debtor or clerk, if the debtor is pro se, must serve any subsequently filed amended plan or modified plan and any notice of hearing thereon on the trustee, all creditors, and interested parties, and file a certificate of service. Service must be made pursuant to Local Rules 2002-1(C)(1), 2002-1(F) and 1009-1(D)(2).

 2020 Amendment: *Local Rule 2002-1(C)(5) imposes the obligation to serve a chapter 13 plan if the plan is not filed contemporaneously with the petition in Chapter 13 cases, unless the debtor is appearing pro se.*

[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.
- (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 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).
- (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

Official Bankruptcy Form “Initial Statement About an Eviction Judgment Against You” containing the certification required under 11 U.S.C. §362(l)(1), or Official Bankruptcy Form “Statement About Payment of an Eviction Judgment Against You” containing 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 filing 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, other than a notice of hearing which is subject to Local Rule 9073-1(B), must file with the court, within two business days after service, a certificate of service substantially conforming to the Local Form "Certificate of Service", that must list the names and addresses and date and manner of service of all parties required to be served by the filing party. 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 must 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).]

☞ 2020 Amendment: The 2020 amendment to Local Rule 2002-1(F) conforms the requirement to file a certificate of service of a notice of hearing only when service is effected for parties who do not receive notice via CM/ECF, as set forth in Local Rule 9073-1(B). The 2020 amendment to Local Rule 9073-1(B)– Filing of Certificate of Service of Notice of Hearing – coincides with the amendment to Local Rule 2002-1(F).

(G) Changes of Address. Parties seeking to change their own U.S. Mail address in cases and proceedings in this court must file a signed Notice of Change of Address in each case or proceeding in which the change is to be effected. Parties registered directly with the BNC to receive notices under the EBN program must also notify the BNC directly of any changes in service information. Debtors registered directly with the clerk under the DeBN program must also notify the court directly of a change in the email service address by filing with the clerk an updated Local Form “Debtor's Request to Receive Notices Electronically Under DeBN Program”.

[Comment: See Local Rule 9036-1(C). Debtor Electronic Bankruptcy Noticing (DeBN).]

(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) [Abrogated]

 2020 Amendment: *Local Rule 2002-1(I) is abrogated.*

[Comment: See also Local Rule 9073-1(B) (Hearings. Filing of Certificate of Service of Notice of Hearing) to determine whether, after use of this limiting notice provision, the filing of a certificate of service applies.]

(J) 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 or ESI at the examination. Examinations may be scheduled by filing the Local Form “Notice of Rule 2004 Examination” and serving the notice on the trustee, the debtor, the debtor’s attorney and the party to be examined, 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 or ESI 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 or ESI 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 or ESI 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 or ESI by, a witness other than the debtor.

[Comment: Local Rule 1007-1(F)(17) defines Electronically Stored Information (ESI). Also see Local Form “Subpoena for Rule 2004 Examination” and Local Form “Notice of Rule 2004 Exam”. Notwithstanding the broad scope of Bankruptcy Rule 2004, such scope is not without limits and the examinee may file a motion for protective order under section (C) of this rule. On such motion, the court will consider an examinee’s reasons for limiting and/or rescheduling the examination; and the court may – at its discretion – consider proportionality as a factor in ruling on a request for production of documents, or electronically stored information.]

(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.)]

(~~20~~ 2020 Amendment: Local Rule 2004-1 coincides with Bankruptcy Rule 2004 and details the manner and procedure of conducting an examination of a debtor and other interested parties. The federal subpoena form for a Bankruptcy Rule 2004 examination, Local Form "Notice of a Rule 2004 Examination", and the Local Form "Subpoena for a Rule 2004 Examination" all include reference to "electronically stored information" as a production requirement. The local rule is amended to include the term "electronically stored information" to make the rule consistent with the district's required forms for a subpoena and notice of a Rule 2004 examination.)

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". Applications shall also include a copy of any executed Engagement Letter or Retention

Agreement. If an Engagement Letter or Retention Agreement is supplemented or modified in writing, applicant *shall* timely file a copy of the supplement or modification.

(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(a)(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 comply with the court’s “Guidelines for Fee Applications for Professionals in the Southern District of Florida” and the local forms described in the guidelines. 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 Petition Preparer". The Official Bankruptcy Form "Bankruptcy Petition Preparer's Notice, Declaration, and Signature" must be filed with each document prepared for filing by the bankruptcy petition preparer as required by 11 U.S.C. §110. If more than one petition preparer works on a case, both petition preparers must file the required fee disclosure information. A petition preparer is only entitled to be compensated if that petition preparer actually does work as a petition preparer. No referral fees are permitted.

[Comment: See also Bankruptcy Rule 2002(c)(2) (notice of fee applications) and Local Rules 1019-1(J) (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.** Chapter 11 debtors (other than individuals not engaged in business) shall file 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.

☞ 2020 Amendment: The 2020 amendment clarifies that the Case Management Summary is not required to be filed in the case of an individual chapter 11 debtor not engaged in business, consistent with the elimination of that requirement in subparagraph (A) of LR 2081 -1 regarding Payroll and Sales Tax Reports. The revision of this rule will also render the Local Rule consistent with the Clerk’s Guidelines for Individual Chapter 11 Debtors, which indicates that the Case Management Summary and the Payroll and Sales Tax Report are not required of an individual debtor not engaged in business). Finally, the revision of the format of LR 2081-1(B)(1) makes it consistent with the format of LR 2081-1(A)(1).

(C) Authority of Chapter 11 Debtor to Operate Business and/or Manage Financial Affairs.

- (1) The operation of a business by a debtor-in-possession in cases filed under Chapter 11 will be facilitated by the entry of an order authorizing the debtor-in-possession to operate its business and substitute debtor-in-possession bank accounts for pre-petition bank accounts, which must be entered upon the filing of the petition or entry of the Order for Relief.
- (2) The management of the financial affairs of individual Chapter 11 debtors not engaged in business will be facilitated by the entry of an order authorizing the debtor(s)-in-possession to manage their financial affairs and substitute debtor-in-

possession bank accounts for pre-petition bank accounts, which must be entered upon the filing of the petition or entry of the order for relief.

2020 Amendment: Implementing the entry of an order in chapter 11 cases to authorize the debtor in possession to continue to operate its business and to manage its financial affairs. Such order – will be generated by the clerk upon the filing of a Chapter 11 petition – authorizes the debtor in possession to open DIP accounts, among other things. Local Rule 2081-1 is amended by adding a new subsection (C) to direct the issuance of this order in chapter 11 cases to facilitate the debtor in possession maintaining its business operations and opening up DIP accounts.

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.
- (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 (C) 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 by

- (a) attending or participating in Florida Bar CLE courses related to the subject area of “Bankruptcy Law” during each attorney’s Florida Bar three-year CLE reporting requirement; and/or
- (b) performing eligible pro bono legal services for clients unable to afford counsel pursuant to criteria set forth under subdivision (B) below.

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) CLE Credit for Pro Bono Legal Services. Attorneys may earn up to three CLE credit hours during any one three year cycle towards this court’s legal education credit-hour requirement specified in subdivision (A)(3) of this Rule by performing eligible pro bono legal services for clients unable to afford counsel in cases pending or eligible to be filed before this court pursuant to assignment by this court, or by participation in pro bono cases taken in this District through eligible pro bono programs.

(1) Definitions

- (a) Eligible pro bono legal services are legal services for which there is **no compensation** to the attorney performing the legal services or for which the attorney has served as a registered mentor to a newer bankruptcy attorney or non-bankruptcy practitioner to take a bankruptcy case on a pro bono basis. Legal services provided by assigned counsel who receive compensation for those services from any source, legal services provided by counsel only when compelled by court order, or legal services provided by legal services organization attorneys within the scope of their employment, are not eligible pro bono legal services.
- (b) Eligible pro bono programs are those in which a program, activity or case is sponsored by, and to which attorneys are assigned bankruptcy cases in our District on a pro bono basis by legal services organizations whose primary purpose is the furnishing of legal services to indigent persons of our community, and in which all recipients of the legal services provided by the program have been screened for financial eligibility to receive pro bono services. Such pro bono programs include, but are not limited to,

those sponsored by the Put Something Back Program or the Bankruptcy Bar Foundation's Pro Bono Program in our District.

(2) Pro Bono CLE Credit. Credit for eligible pro bono legal services may be earned as follows:

(a) Taking Pro Bono Cases. Pro bono CLE Credit may be earned for the provision of eligible pro bono legal services to clients unable to afford counsel by taking pro bono bankruptcy cases from providers of eligible pro bono programs. A maximum of three pro bono CLE credit hours may be earned during any one reporting three-year cycle.

(b) Serving as a Registered Mentor. Pro bono CLE Credit may be earned by providing mentorship services to newer bankruptcy attorneys and non-bankruptcy attorneys who are providing eligible pro bono services through eligible pro bono programs. A maximum of three pro bono CLE credits hours may be earned during any one reporting three-year cycle by the registered attorney mentoring such newer bankruptcy attorney or non-bankruptcy attorney in three pro bono bankruptcy cases during the span of each such reporting three-year cycle by showing proof of its registration for the provider of eligible pro bono programs.

(c) Court Assignment. Pro bono CLE Credit may be earned for the provision of eligible pro bono legal services to clients unable to afford counsel pursuant to assignment by a court. A maximum of three pro bono CLE credits hours may be earned during any one reporting three-year cycle for taking such cases. Attorneys, however, will not be given any credits for performing pro bono legal services pursuant to a sanction or by any order of this court providing otherwise.

(C) 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 (C)(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 3002.1-1; (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 otherwise qualified to practice in this court but is (a) not a member of the bar of the United States District Court for the Southern District of Florida, or (b) a member of the bar of the United States District Court for the Southern District of Florida but is not in compliance with subsection (A)(3) (a “visiting attorney”), may seek to appear *pro hac vice* in any case or proceeding before this court. Any applicable fee authorized under these 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 filing of a motion to appear *pro hac vice*. Such visiting attorney must associate with an attorney who (a) is qualified to practice with this court, (b) is a member in good standing of the bar of the United States District Court for the Southern District of Florida, and (c) maintains an office in this District for the practice of law (a “local attorney”). Such local attorney must file the Local Form “Motion to Appear *Pro Hac Vice*” and proposed Local Form “Order Admitting Attorney *Pro Hac Vice*” in the relevant main bankruptcy case, unless the visiting attorney intends to appear only in a specific adversary proceeding, in which case the motion must be filed only in such adversary proceeding and the local form motion and proposed order may be edited accordingly. In the motion, the local attorney shall certify that he or she is a member in good standing of the bar of the United States District Court for the Southern District of Florida and qualified to practice before this court, that he or she is willing to act as local counsel, and that he or she will participate in the preparation and presentation of, and accept service of all papers in, the case in which the motion is filed and any adversary proceedings in which the visiting attorney appears on behalf of the same client or clients (unless the motion is limited to a particular adversary proceeding). If the motion is filed in the main case, the local attorney must acknowledge that if he or she declines to serve as local counsel in any adversary proceeding involving the same client or clients, separate local counsel must file an additional Motion to Appear *Pro Hac Vice*, and that absent such separate motion and an order of this court approving the same,

he or she will continue to act as local counsel for the client(s) in all such proceedings.

In a separate affidavit filed with or as part of the motion, the proposed visiting attorney must 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 must designate local counsel consistent with this local rule. The proposed visiting attorney must 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 must certify that he or she is familiar with and will 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.

District Court Local Rule 4(b)(2) applies to *pro hac vice* appearances before this court as the bankruptcy court is a court of the Southern District of Florida.

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.

Lawyers who are not members of the bar of the United States District Court for the Southern District of Florida are not permitted to engage in general practice in the District. For purposes of this rule, the filing of more than three motions to appear *pro hac vice* within a 365-day period in separate representations before the courts of the United States District Court for the Southern District of Florida will be presumed to be a "general practice." Upon written motion and for good cause shown, the court may waive or modify this prohibition. 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.]

☞ 2020 Amendment: *The current version of Local Rule 2090-1(C)(2) incorporates by reference alone Southern District of Florida, Local Rule 4(b)(2). The 2020 revision to Local Rule 2091-1(C)(2) includes the actual text of the Southern District's Local Rule 4(b)(2), so that Bankruptcy Court Local Rule 2090-1(C)(2) is self-containing.*

(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.

(D) 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). 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.

(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 additional expense associated with the use of an appearance attorney, (c) the appearance attorney complies with all applicable rules regarding disclosure of any fee sharing arrangements, and (d) appearance counsel is familiar with the debtor's schedules and statement of financial affairs and is otherwise familiar with the facts of the case.

(E) 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.

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 choose 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 – Changes in Attorney of Record for Parties in Cases or Proceedings.

Withdrawal from representation of a client requires leave of court, after notice served on all affected parties, except in the following instances:

(A) Withdrawal by Attorney for Creditor in an Uncontested Matter: An attorney representing a creditor who is not a party to any pending contested matter or adversary proceeding may file a notice of withdrawal of his or her appearance in each affected case or proceeding. Copies of the notice must be served on all interested parties.

(B) Joint Notice of Substitution of Counsel in a Contested Matter: An attorney for a creditor or chapter 7 or 13 debtor seeking to withdraw from representing a client in a case or proceeding at a time when such client is represented by new counsel of record may file a joint notice with counsel seeking to be substituted as counsel of record for the client, in each affected case or proceeding. Such notice shall contain a statement that the client has consented to the substitution or be signed by the client, and be served on all interested parties.

(C) Substitution of Attorney in Same Firm: An attorney with the same firm as an attorney initially employed by a client pursuant to Local Rule 2014-1, may substitute as counsel for that client by filing the Local Form "Notice of Substitution" in each affected case or proceeding containing a statement that the client has consented to the substitution, and serving the notice on all interested parties, unless the attorney initially employed was the signatory to the "Affidavit of Proposed Attorney for Debtor in Possession/Trustee" or new counsel, if applicable, is not disinterested or represents a materially adverse interest.

The provisions of this rule are 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 and is not intended as an exception to any other requirement.

[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 and 2090-1 "Attorneys".]

☞ 2020 Amendment: Section (C) of Local Rule 2091-1 provides the notice requirements for an attorney of record to withdraw from an active bankruptcy case in this District, and substitute into the case an attorney working within that retained law firm. The 2020 Amendment now references the Local Form "Notice of Substitution", which the new attorney at the retained law firm will file.

Rule 3001-1. Proof of Claim.

(A) Form. 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).

(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(J), 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.

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(I).

(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), the deadline for filing a proof of claim or interest shall be 70 days after the service date of the §341 or post conversion meeting notice.
- (2) Case Dismissed and Reinstated.** If a case is dismissed prior to the expiration of the claims deadline and subsequently reinstated the new deadline for filing a proof of claim or interest shall be 70 days from entry of the order reinstating the case.

Local Form “Order Reinstating Chapter 13 Case” is required for any reinstated chapter 13 case and Local Form “Order Reinstating Chapter 7 Case” is required for any reinstated chapter 7 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).]

(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, 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(J) (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 3002.1-1. Notice of Payment Changes and Notice of Fees, Expenses and Charges ("3002.1 Notices").

- (A) 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:
- (1) that are 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
 - (2) for which the plan provides that either the trustee or the debtor will make contractual installment payments and which payments are subject to change.
- (B) Prohibited Notices and Sanctions.** If the plan's treatment of a claim secured by a security interest in real property is not covered by subsection (A)(1) of this rule and the stay has been lifted in relation to the creditor's claim, the creditor is prohibited from filing a notice of payment change. Upon motion by the debtor, the court will consider awarding sanctions against a creditor that files a notice of payment change that is not required under Bankruptcy Rule 3002.1, as expanded by subsection (A)(1) of this rule, and that is expressly deemed unnecessary under this rule.
- (C) Relief from Automatic Stay.** Upon entry of an order granting a creditor relief from the automatic stay, such creditor shall resume sending notices of payment change and escrow

- (D) notices directly to the debtor pursuant to such creditor's underlying contract with the debtor.
- (E) **Mortgage Modification Mediation Program.** If the debtor and creditor are currently participating in the Mortgage Modification Mediation ("MMM") Program, the following provisions will apply to 3002.1 Notices:
- (1) 3002.1 Notices filed and served by such creditor are for notice purposes only and are abated pending the outcome of the mediation. If the MMM does not result in a modification of the mortgage, the 3002.1 Notices shall become effective upon the filing of the Final Report of Mortgage Modification Mediator.
 - (2) The debtor is not required to file an objection to a 3002.1 Notice filed and served by a creditor during the pendency of a mediation with such creditor.
 - (3) In the event the mediation ends in a Final Report of No Agreement, the debtor shall have 14 days from the date on which such Final Report is filed to modify the debtor's chapter 13 plan to respond to the 3002.1 Notice(s) pursuant to subsection (F) of this rule.
- (F) **Modifications to Official Bankruptcy Form "Notice of Mortgage Payment Change" Required.** When a 3002.1 Notice is filed addressing a claim covered under subdivision (A)(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.
- (G) **Debtor Response to 3002.1 Notice.** Counsel for the debtor shall review all 3002.1 Notices and conform or object to these notices (a) within one year after a notice of fees, expenses and charges is issued by the creditor, and (b) on the day preceding the date on which the new amount described in a notice of payment change is due. Notwithstanding the foregoing, during the pendency of an MMM, the deadline set forth in subsection (D)(3) of this rule shall apply. Prior to the applicable deadline, counsel for the debtor must file Local Form "Debtor's Response to Rule 3002.1 Notice" and select one of the following response options:
- (1) object to the creditor's 3002.1 Notice, and request a hearing on such objection;
 - (2) indicate that the debtor does not object to the 3002.1 Notice and the debtor will propose an amended or modified plan to provide for the payment change, fee, charge or expense referenced in the 3002.1 Notice;
 - (3) indicate that the debtor does not object to 3002.1 Notice; however, due to the de minimis amount referenced in the Notice, (i) the debtor will not propose a modified plan to provide for the payment change, fee, charge or expense; (ii) the debtor will address such amounts outside of the debtor's bankruptcy case; and

(iii) the debtor acknowledges that the chapter 13 trustee will not remit payment of any de minimis amount, and any such de minimis amount is not subject to discharge unless paid in full; or

(4) indicate that the creditor and the debtor are filing a Joint Motion to Abate 3002.1 Notices and Reconcile Annually, under subsection (G) of this rule.

(H) Joint Motion to Abate 3002.1 Notices and Reconcile Annually. The debtor and the creditor may file a Joint Motion to Abate 3002.1 Notices and Reconcile Annually, when the contractual payment to such creditor remitted by the chapter 13 trustee adjusts periodically during the term of the plan. The order granting the motion shall (a) include language that the debtor and the creditor agree to annually reconcile the claim to account for any payment change, fee, charge or expense that impacted the claim in the previous year; (b) specify how the parties intend to notify the court of the annual reconciliation, (c) require that the creditor file with the court a notice of the annual reconciliation of the claim, (d) to the extent that the debtor contests the amount due the creditor as a result of the annual reconciliation of the claim, require the debtor to file an objection to such notice and request a hearing, within 21 days of the date such notice is filed, (e) if the debtor does not object to the annual reconciliation of the claim, direct the debtor to pay such amount directly to the creditor and acknowledge that the chapter 13 trustee will not remit payment of such amount, and any such amount is not subject to discharge unless paid in full; and (f) amend any confirmation order previously entered in the case by providing that the debtor will remit the amount of any payment change either agreed to by the debtor or approved by the court directly to the creditor outside the plan.

☞ 2020 Amendment: *The 2020 Amendment to Local Rule 3070-1(B) deletes subsection (B) of Local Rule 3070-1(B) and moves the substance of this subsection to new Local Rule 3002.1-1, as well as changes the title of the rule from “Post Confirmation Payment Changes or Charges” to “Notice of Payment Changes and Postpetition Fee Notices (“3002.1 Notices”). The amendment also makes clear that the requirements of Bankruptcy Rule 3002.1 and Local Rule 3070-1(B) cease upon the creditor obtaining relief from the automatic stay. Prior to entry of an order granting stay relief, 3002.1 Notices must be filed and are required to be filed. However; after entry of an order granting stay relief, the secured creditor must not file a 3002.1 Notices in any case in which the plan payments to that creditor are not made by the trustee or are not going to change under the loan documents. The amendment also incorporates the Mortgage Modification Mediation (“MMM”) program and makes clear that 3002.1 Notices are for notice purposes only during the mediation process, and the debtor is not required to file an objection due to the pending mediation. Finally, the amendment adds a requirement for the debtor’s Response to a 3002.1 Notice to be prepared on the local form. However, the debtor and creditor may elect to avoid the expense of modifying the debtor’s chapter 13 plan and instead to reconcile the modified payments due to the creditor annually by filing a “Joint Motion to Abate 3002.1 Notices and Reconcile Annually.”*

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 70 days after entry of the order for relief, or in a dismissed case, 70 days after entry of the order reinstating case. 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.

(B) [Abrogated]

(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 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).]

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

Rule 3007-1. Objections to Claims.

(A) [Abrogated]

 2020 Amendment: *Local Rule 3007-1(A) is abrogated.*

(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. In a case involving a pro se debtor, the court may grant the relief requested by the objecting party without hearing so long as the relief requested does not affect the rights of the pro se debtor and the objection was filed by a party in interest other than the pro se debtor.

 2020 Amendment: *Local Rule 3007-1(D)(1) is amended to clarify that the negative notice procedure for claims objections may be used in a case filed by a pro se debtor, so long as the relief sought in the objection is not adverse to the debtor.*

(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 “Order Sustaining Objection to Claims” regarding claimants who did not contest the objection.

(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.

[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. 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(J) (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) Service of Order Setting Confirmation Hearing.** The “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” shall be served, along with a copy of the plan, by the plan proponent in accordance with the provisions of the order.
- (2) 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. Filing of Plan. A chapter 13 plan must conform to the Local Form “Chapter 13 Plan”.

[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 Valuation of Collateral. 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 ____."
- (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 Process

- (1) Objections to Confirmation.** Except for objections to confirmation based on valuation of collateral in the plan filed under section (A) of this rule, objections to confirmation of the plan must be in writing and filed no later than 14 days prior to the date first scheduled for hearing on confirmation. Any timely filed objection shall constitute an objection to any amended plan. Should an amended plan be filed changing the treatment of any claim, the affected creditor may raise its objection orally at the hearing to consider confirmation of that amended plan.
- (2) Deadline for Debtor to File Local Form Certificate.** Prior to confirmation, Debtors must file the Local Form “Debtor Certificate of Compliance and Request for Confirmation of Chapter 13 Plan”.
- (3) Order Confirming Plan.** An order confirming plan shall contain the provisions addressing payment to tax certificate holders and requirements for tax collectors required under Local Rule 2083-1(A) and shall be served pursuant to Local Rule 2002-1(C)(11).

[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).]

Rule 3016-1. ABROGATED

☞ 2020 Amendment: Local Rule 3016-1 is abrogated, as the majority of small business debtors do not use the official disclosure or plan forms. To streamline and simply the procedure, Local Rule 3017-2 is being supplemented to allow for conditional approval of the disclosure statement in a small business case because such approval should not prejudice creditors, who may still object to the adequacy of a disclosure statement at a combined hearing on confirmation).

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. Conditional Approval of Disclosure Statement for Small Business Cases. In a small business case, the court may combine the hearing on approval of the disclosure statement with the hearing on confirmation of the chapter 11 plan, by issuing its “Order Conditionally Approving Proposed Disclosure Document, Setting Hearing on Final Approval of Proposed Disclosure Document and Confirmation of Chapter 11 Plan, Setting Various Deadlines and Describing Plan Proponent’s Obligations.” Upon entry of such order, the plan proponent must serve the order, plan and disclosure statement on the parties required by Bankruptcy Rule 3017(d), along with a ballot in the form required by Local Rule 3018-1.

☞ 2020 Amendment: Local Rule 3017-2 is supplemented to allow for conditional approval of the disclosure statement in a small business case because such approval should not prejudice creditors, who may still object to the adequacy of a disclosure statement at a combined hearing on confirmation.

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(E) shall apply.

(B) [Abrogated.]

☞ 2020 Amendment: *Local Rule 3070-1(B) has been amended to delete subsection (B) of Local Rule 3070-1(B) and moves the substance of this subsection to new Local Rule 3002.1-1, as well as changes the title of the rule from "Post Confirmation Payment Changes or Charges" to "Notice of Payment Changes and Postpetition Fee Notices ("3002.1 Notices")*. The amendment also makes clear that the requirements of Bankruptcy Rule 3002.1 and Local Rule 3070-1(B) cease upon the creditor obtaining relief from the automatic stay. Prior to entry of an order granting stay relief, 3002.1 Notices must be filed and are required to be filed. However; after entry of an order granting stay relief, the secured creditor must not file a 3002.1 Notices in any case in which the plan payments to that creditor are not made by the trustee or are not going to change under the loan documents. The amendment also incorporates the Mortgage Modification Mediation ("MMM") program and makes clear that 3002.1 Notices are for notice purposes only during the mediation process, and the debtor is not required to file an objection due to the pending mediation. Finally, the amendment adds a requirement for the debtor's Response to a 3002.1 Notice to be prepared on the local form. However, the debtor and creditor may elect to avoid the expense of modifying the debtor's chapter 13 plan and instead to reconcile the modified payments due to the creditor annually by filing a "Joint Motion to Abate 3002.1 Notices and Reconcile Annually."

(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 or amended, 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.

(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.

(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.
- (2) 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".

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 shall 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. Subject to the limitation in chapter 7 and chapter 13 cases set forth below, creditors in chapter 7, 11, 12, or 13 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 **bold print** 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, 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.

- (1) Chapter 7.** Negative notice under this rule is not available for a motion for relief from stay filed (a) prior to the commencement of the meeting of creditors in the case; (b) in any chapter 7 case in which the debtor is not represented by an attorney.
- (2) Chapter 13.** Except in any chapter 13 case in which the debtor is not represented by an attorney, a motion seeking relief from the automatic stay may be filed on negative notice in a chapter 13 case in which the debtor's chapter 13 plan (a) provides for the surrender of collateral to the movant, (b) provides for the movant's claim to be paid by the debtor directly to the movant rather than through the chapter 13 trustee's office, or (c) does not provide for the payment of the movant's claim. The movant must include a statement in the motion specifying one of the foregoing reasons as the basis for filing the motion on negative notice. Any such motion is exempt from the District's guideline

requirement that an affidavit of indebtedness and indebtedness worksheet be affixed to the motion.

- (a) **Pre-Confirmation.** Prior to confirmation of a chapter 13 plan, a creditor may file a motion for relief from the automatic stay on negative notice (serving all interested parties), in the manner outlined under this rule.
- (b) **Post-Confirmation (Ex Parte).** After confirmation of a chapter 13 plan, a creditor may file a motion (serving all interested parties) seeking an order confirming that the automatic stay is not in effect. Movant may file such motion on an ex parte basis, and the court may enter an order granting the motion without a hearing.
- (c) **Pro Se Debtors.** Negative notice under this rule is not available for a motion for relief from the automatic stay or seeking confirmation that the automatic stay is not in effect filed in any chapter 13 case in which the debtor is not represented by an attorney.

[Comment: Relief from the automatic stay cannot be obtained on negative notice in any chapter – under any circumstance – where the debtor is not represented by an attorney. This amendment also creates an additional exception under Section (D) of the Southern District of Florida’s Guidelines for Motions for Relief from the Automatic Stay, by modifying the required exhibits.]

☞ 2020 Amendment: Local Rule 4001-1(C) expands negative notice for motions for relief from the automatic stay in Chapter 13 cases where the debtor has proposed a chapter 13 plan that provides for surrender of creditor’s collateral, treats creditor’s collateral outside the plan, or fails to provide treatment of creditor’s collateral through the Chapter 13 plan. For confirmed chapter 13 plans, the creditor may file a motion requesting entry of an order confirming that no automatic stay is in place on an ex parte basis. The 2020 Amendment also clarifies that relief from stay cannot be obtained on negative notice if the debtor is not represented by an attorney).

(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".]

(I) Negotiations Related to Potential Modification of Loan; Automatic Stay Not Applicable.

The automatic stay is not applicable, and it shall not be necessary to seek relief from the automatic stay, for a lender with a claim secured by property of the estate to negotiate with a pro se debtor or with debtor's counsel regarding potential modification of the loan.

(J) Tax Certificates; Automatic Stay Not Applicable. The automatic stay under 11 U.S.C. § 362(a) is not applicable to and does not prohibit Florida Tax Collectors from selling in the ordinary course tax certificates secured by property owned by a debtor in bankruptcy or a bankruptcy estate. This rule does not permit the sale of tax deeds, unless the automatic stay is terminated by operation of law or is modified by an order of the court.

☞ 2020 Amendment: Local Rule 4001-1 includes new Section (J) which clarifies that the automatic stay does not prohibit Florida Tax Collectors from selling tax certificates secured by property owned by a debtor's bankruptcy estate. However, this rule does not apply to the sale of tax deeds.

(K) Notice to Florida State Court. If the court enters an order granting relief from the automatic stay pertaining to an action pending in a Florida state court, the movant shall include the clerk of the applicable Florida state court as an interested party on the certificate of service of the order granting relief from the automatic stay. The certificate of service shall identify the clerk of court by name and county and shall list the case number of the state court action immediately below the name of the applicable state court clerk of court.

☞ 2020 Amendment: Local Rule 4001-1 includes new Section (K) which requires a stay relief order to be served on a state court clerk if subject property involved in a foreclosure proceeding.

(L) Motions to Extend or Impose the Automatic Stay. A motion to extend the automatic stay under 11 U.S.C. § 362(c)(3) or to impose the automatic stay under 11 U.S.C. § 362(c)(4) must be accompanied by a declaration or affidavit by the debtor in support of the motion describing the facts upon which the debtor is relying to rebut the presumption that the case was not filed in good faith, or such motion must contain a description of such facts and be verified by the debtor in accordance with 28 U.S.C. §1746.

☞ 2020 Amendment: Local Rule 4001-1 includes new Section (L) which requires the debtor or debtor's counsel – seeking to extend the automatic stay under §362(c)(3) or impose the automatic stay under §362(c)(4) – to file an affidavit or declaration in support of a motion seeking such relief describing the facts upon which the debtor is relying to rebut the presumption that the case was not filed in good faith.

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).]

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 Rules 9013-1(D)(3)(f) and (k) 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. Modification of Deadline for Objections to Discharge. 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:

(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 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.

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

- (1)** 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
- (2)** 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.

(C) Notice of New Deadline. The clerk shall provide notice of new deadlines established under this rule.

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 any established court procedures that provide for delay of entry of the discharge, including but not limited 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. In a case in which the debtor, joint debtor or both are deceased and the instructional course(s) concerning personal financial management had not been completed before their death, the debtor’s attorney must obtain a copy of the death certificate for the affected debtor(s), attach a redacted copy as an exhibit to Local Form 97C, and request that the court waive the requirement that the debtor(s) complete the personal financial management course.

- (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.

(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 Local 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 entry of the order reinstating the case.

(C) Notice of New Deadline. The clerk shall provide notice of any new deadlines established under this rule.

Rule 4008-1. Reaffirmation.

(A) Official Bankruptcy and Director Forms Required; No Notice, Hearing or Order Required to Confirm Enforceability. Reaffirmation agreements shall be filed utilizing the Official Bankruptcy Form “Cover Sheet for Reaffirmation Agreement” and, if applicable, any other 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 unless accompanied by a Motion to Revoke Discharge of Debtor.

(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(D) and (E).]

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 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 subdivision (4) of this Rule; 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. When completing Official Bankruptcy Forms requiring information on minors, follow the form instructions regarding how to indicate this information.
 - (iii) Dates of birth. If an individual's date of birth must be included in a pleading, only the year should be used. When completing Official Bankruptcy Forms requiring information on minors, follow the form instructions regarding how to indicate this information.
 - (iv) Financial account numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
- (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 Individual 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 by individual debtors under 11 U.S.C. §1116(1)(A), and docketed as a non-public "restricted" document, shall be in accordance with the Administrative Office of the United States Courts "Director's Guidance Regarding Tax Information Under 11 U.S.C. §521", as amended or supplemented by any subsequent directives issued.

This document will be posted on the court website (see Guide to Judiciary Policy Vol. 4: §830).

[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) [Abrogated.]

[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).]

☞ 2020 Amendment: Amended to clarify the procedure for restricting filings that contain personal information, and moves the amended rule to Local Rule 9037-1 to be consistent with the Federal Rules of Bankruptcy Procedure which provides for privacy protection for filings made with the Court in Rule 9037. As a result, local rule 5005-1(A)(3) is abrogated and replaced with local rule 9037-1.

(4) Sealed Records

- (a) General.** Documents filed with the court shall be sealed only upon order of the court. Requests to seal documents shall be filed electronically by registered CM/ECF users with full filing privileges and conventionally by all other filers, including registered CM/ECF users with limited electronic filing privileges.
- (b) Local Form Cover Sheet Required.** The Local Form “Cover Sheet to Accompany Items Conventionally Submitted for Sealing or In Camera Review” shall accompany any conventionally filed motion and/or sealed document.
- (c) Manner of Submission of Motions to Seal and Sealed Documents.** A Motion to seal and/or a sealed document may be filed with the court as:
 - (i)** an unsealed motion and a sealed document; or
 - (ii)** a sealed motion accompanied by the sealed document; or
 - (iii)** a sealed document being filed pursuant to a prior court order authorizing the document to be filed as sealed. If conventionally

filed, a copy of the order authorizing sealing must also accompany the sealed document (unless order is sealed).

(d) Disposition of Sealed Documents upon Case Closing. Upon administrative closing of a case containing sealed documents, and absent a prior order of the court directing the clerk as to the length of time during which the records shall remain sealed, the court will issue an order setting a deadline for the document(s) to be unsealed unless prior to the deadline, the party filer files a motion requesting that the document(s) be returned or deleted from the court's electronic case management system. If no timely requests are filed, the document(s) will be unsealed.

(5) Form Used for Submission of Social Security or Other Individual Taxpayer Identification Numbers. The Official Bankruptcy Form "Statement About Your Social Security Numbers" as required by the Bankruptcy Rules or this court, shall be retained by the clerk as a non-public record.

(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 About Your Social Security Numbers"(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.

(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. Responses, memoranda, affidavits and other papers intended for consideration at any hearing already set before the court, must 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 and may be stricken. All responsive papers shall set forth any applicable defenses or objections in law or fact on which the respondent relies. All responsive papers must be served in accordance with these local rules. This subdivision shall not apply to affidavits filed pursuant to Bankruptcy Rule 7056.

(2) Emergency Submittal. Responses, 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 (a) such response, memorandum, affidavit, or other paper sets forth with particularity, under a separate heading in the text or, in the case of an affidavit, on a notice accompanying such affidavit, the emergency nature of the filing or other exceptional circumstance(s) causing the untimely filing of such paper, (b) the filing party promptly notifies the courtroom deputy or law clerk of the hearing judge, in the manner specified on the hearing judge's homepage on the Court's website maintained at www.flsb.uscourts.gov, that such paper has been filed and the ECF number assigned to such filing, and (c) such paper is sent by email (in addition to any notice of electronic filing generated by the CM/ECF system) promptly after filing to all interested parties for whom an email address is reasonably ascertainable and, for all other parties, by telecopier or other means reasonably calculated to ensure prompt receipt. The requirements of this rule are in addition to the service requirements set forth in the Bankruptcy Rules and these local rules.

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

- (3) **Rule Not Applicable to Exhibits/Amended Chapter 13 Plans, Schedules, or Statement.** This rule does not modify Local Rule 9070-1, regarding the presentation of papers introduced as evidence in a trial or evidentiary hearing, nor does this rule 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).

☞ 2020 Amendment: Local Rule 5005-1(F) clarifies and supplements the requirements for filing a response to a pleading in order to ensure such response is heard and considered at the hearing on the underlying motion that relates to the response. The amendment details a procedure for submission of the response, memorandum, or affidavit and requires an explanation for the untimeliness of such response.

(G) **Submittal and Service of Proposed 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

- (d) 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.
- (e) An order submitted in a matter that was heard solely on the Chapter 13 Consent Calendar must state that the matter “came before the Court on the Chapter 13 Consent Calendar.” Matters resolved on the Chapter 13 Consent Calendar are not considered to be heard “by 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).]

- (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 within three business days from entry 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).]

☞ 2020 Amendment: *Local Rule 5005-1(G)(1)* clarifies and supplements the requirements for submitting an order in a chapter 13 case which is heard on the Chapter 13 Consent Calendar. See *Local Rule 1001-1(F)(16)* definition of consent calendar.

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 oversize exhibits at a trial or evidentiary hearing.

[Comment: See also Local Rule 9070-1(A)(7) (oversize exhibits and exhibits other than paper documents).]

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(C)(3), except for government attorneys appearing for those limited purposes under Local Rule 2090-1(C)(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.
- (3)** If the court grants a pro hac vice appearance in a case under Local Rule 2090-1(C)(2), the attorney may apply to become a registered user in this district with full filing privileges and enter an electronic appearance in that case. The court grants pro hac vice appearance on a case by case basis. Attorneys granted pro hac vice appearance who subsequently become registered users with full filing privileges may only enter an electronic appearance in a case in which an order granting pro hac vice has been entered.
- (3)** The court encourages attorneys appearing under Local Rule 2090-1(C)(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 3002.1-1, 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(C)(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) [Abrogated.]

 2020 Amendment: *Local Rule 5005-4(C) and 9011-4(D) abrogates the existing rules and substitutes in their place Local Rule 9011-1 which allows for lawyers to accept digital signatures that are capable of signature authentication, and permits debtor’s counsel to retain a digital image of a signature required on a verified document.*

(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.

(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 previously issued in the case,
- (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” and “Bankruptcy Miscellaneous Fee Schedule”.]

(B) Reopening to Amend Schedules to Add an Omitted Creditor. In a no-asset individual chapter 7 case, a motion to reopen a case to amend schedules to add an omitted creditor (1) must be accompanied by the filing fee required by subdivision (A) of this rule, (2) must be accompanied by a proposed order conforming to the Local Form “Order Reopening Case to Amend Schedules to Add Omitted Creditor,” and (3) must state why the debtor did not schedule the affected creditor or creditors prior to entry of the debtor’s discharge. The motion must be served in accordance with Bankruptcy Rule 7004, using the procedures set forth in either Local Rule 9013-1(D)(3)(i) or Local Rule 9073-1. Any affected creditor may object on any appropriate ground including, without limitation, that the subject debt is of a kind specified in paragraph (2), (4), or (6) of section 523(a) of the Bankruptcy Code and the creditor did not have notice or actual knowledge of the case sufficient to timely request a determination of dischargeability. No trustee shall be appointed. If the debtor fails timely to comply with the order, the case shall be reclosed without further notice.

[Comment: See also 11 U.S.C. §523(a) (dischargeability of debt) and Local Rule 9013-1(D)(3)(i) (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 multi-part motion to reopen case and to avoid judicial lien must be accompanied by the fee required by subdivision (A) of this rule. The motion to reopen case and to avoid judicial lien 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 reopen case and to avoid judicial lien, the case shall be reclosed 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 “Certification About a Financial Management Course”. If proof 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)(2).

(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, electronically submit to the court reporter and file with the clerk

of this court, the Local Form "Transcript Request Form" 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.

(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 status conference and pretrial conference and trial). 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 United States Marshals 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. Electronic Cigarettes. Smoking, including use of electronic cigarettes is prohibited in all environs of the court. Electronic cigarettes may not be brought into courthouses of the Southern District, except by those permitted to bring electronic devices into courthouses under subdivision (C)(2) of this rule. This exception is subject to any additional prohibitions or permissions on this matter enacted by the U.S. District Court, Southern District of Florida in buildings shared by both the district and bankruptcy courts.

(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), iPads or tablets, laptop computers, tape recorders, etc., are prohibited from being brought into any federal courthouse facility within the Southern District of Florida, including the West Palm Beach Bankruptcy Court facility.
- (2) Exceptions.** Notwithstanding subdivision (A) above:
 - (a)** The restrictions against cellular phones (including phones with integrated camera devices), pagers, personal data assistants (PDA), iPads or tablets, 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 with valid permanent government employee identification; any attorney of the U.S. Trustee's Office with a valid identification card issued from that office; any attorney permitted to practice law within the Southern District of Florida with a valid Florida Bar identification card or pro hac vice order that has business within the facility, any special agent of the United States government or other law enforcement officer authorized to enforce the law within the Southern District of Florida, U.S. Trustees' Office staff and non-attorney bankruptcy trustees who have been authorized by the U.S. District Court, Southern District of Florida, to enter a federal courthouse facility with electronic devices, and court authorized court reporters. 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.

[Comment: See also Administrative Order 2011-108, United States District Court, Southern District of Florida, regarding book readers.]

(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.

[Comment: See also Administrative Order 2009-12, United States District Court, Southern District of Florida, relating to news reporters.]

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, and fees for compact discs of court proceedings 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 use 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 bold print:

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][motion].

An interested party's failure to timely file an objection shall be deemed a consent to the use, sale, or lease.

- (2) If no objection is filed or served, the proponent shall file a report pursuant to Bankruptcy Rule 6004(f) certifying the lack of any response to the notice and the effectuation of the use, sale, or lease, or if the proposal is by motion the proponent shall submit a proposed order pursuant to Local Rule 5005-1(G), including the following language in the order's preamble:

“and the movant by submitting this form of order having represented that the motion was served on all parties required by

Bankruptcy Rule 2002 or Local Rule 2002-1(H) or (J), that the 21-day response time provided by Local Rule 6004-1(D) has expired, that no one has filed, or served on the movant, a response to the motion, and that [either] the form of order was attached as an exhibit to the motion [or] the relief to be granted in this order is the identical relief requested in the motion,”

- (3) 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 the movant to the extent required by 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.]

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).]

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 the movant to the extent required by 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.

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 Proceeding 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 proceedings 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 or pluries, and electronically transmit it to the plaintiff, who must serve it together with the complaint and status conference 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 or pluries 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 or pluries summons that will require rescheduling of the status conference date will be considered in accordance with subdivision (B) of this rule.

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

 2020 Amendment: Amended to make this rule consistent with the Court's adoption of a new Status Conference Order.

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

Rule 7016-1. Pretrial Procedure.

(A) Scheduling Conference Requirements Inapplicable. Rule 16(b) of the Federal Rules of Civil Procedure does not apply 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) Status Conference Orders. The clerk will electronically generate and docket the “Order Setting Status Conference and Establishing Procedures and Deadlines” 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) and 7026-2 (e-discovery).]

☞ 2020 Amendment: Revisions to Local Rule 7016-1 make this rule consistent with the Court’s adoption of a new form of pretrial order and a new form status conference order, as well as the adoption of a new local rule (7026-2) regarding e-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, apply to cases and proceedings in this court only to the extent set forth in the “Order Setting Status Conference and Establishing Procedures and Deadlines,” and “Order Setting Filing and Disclosure Requirements for Pretrial and Trial”.

(B) Subpoena Forms. Subpoenas served in adversary proceedings or main cases must 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 of Premises in a Bankruptcy Case (or Adversary Proceeding)”.

(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;

must be served upon other attorneys and parties, but are not to be filed with the court, nor may any 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 must retain the original and become the custodian. The original of all transcripts of depositions upon oral examination must 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 must 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) Discovery Disputes. Motions to Compel, Motions for Protective Order, Required Certification.

- (1) Discovery Disputes.** If a discovery dispute occurs, the parties must first, as required by Fed. R. Civ. P. 37(a)(1), as incorporated by Fed. R. Bankr. P. 7037, confer in good faith to attempt to resolve the issues.
- (2) 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, must 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 must be written in immediate succession to one another. Such objections and grounds must be addressed to the specific interrogatory or request and may not be made generally.
- (3) Motions for Protective Order.** A party may file, before 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. The filing of a motion for protective order stays 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. Before filing a motion to compel discovery or a motion for protective order pursuant to Bankruptcy Rule 7026, the attorney for the moving party must confer with the attorney for the opposing party and must 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 must specify the issues so resolved and the issues remaining unresolved.

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


☞ 2020 Amendment: Revisions to Local Rule 7026-1 (as to subsections A-F only) make this rule consistent with the Court's adoption of a new form of pretrial order and a new form status conference order. The revisions also include a new subsection (E)(1) addressing discovery disputes.

(G) Assertion of Privilege.

- (1)** Where a claim of privilege or protected work product is asserted in objecting to any interrogatory or production demand, or sub-part thereof, and a complete answer is not provided on the basis of such assertion, the party asserting the privilege or protected work product:
- (a)** must identify the nature of the privilege or protected work product being claimed; and
 - (b)** must provide in the objection the following information, unless divulgence of such information would cause disclosure of the allegedly privileged or protected information:
 - (i)** For documents or electronically stored information, to the extent the information is readily obtainable: (1) the type of document (e.g., letter or memorandum) and, if electronically stored information, the software application used to create it (e.g., MS Word, MS Excel); (2) general subject matter of the document or electronically stored information; (3) the date of the document or electronically stored information; and (4) such other information as is sufficient to identify the document or electronically stored information, including, where appropriate, the author, addressee, and any other recipient of the document or electronically stored

information, and, where not apparent, the relationship of the author, addressee, and any other recipient to each other;

- (ii) For oral communications: (1) the name of the person making the communication and the names of persons present while the communication was made and, where not apparent, the relationship of the persons present to the person making the communication; (2) the date and the place of communication; and (3) the general subject matter of the communication.
- (2) This rule requires preparation of a log with respect to all documents, electronically stored information, things and oral communications withheld on the basis of a claim of privilege or work product protection; provided, however, written and oral communications between a party and its counsel made or work product material created after the commencement of the adversary proceeding or contested matter need not be logged absent a court order providing otherwise.
- (3) Efficient means of providing information regarding claims of privilege and protected work product are encouraged, and parties are encouraged to agree upon measures that further this end. For example, when asserting privilege or protected work product on the same basis with respect to multiple documents, notwithstanding the other provisions of this rule, it is presumptively proper to provide the information required by this rule by group or category. A party receiving a log that groups documents or otherwise departs from a document-by-document or communication-by-communication listing for alleged privileged or protected work product may not object solely on that basis, but may object if the substantive information required by this rule has not been provided in a comprehensible form.

 2020 Amendment: *Local Rule 7026-1 creates new Section "G" – Assertion of Privilege. Subsections (1) and (2) of new Section (G) was derived from Southern District of Florida Local Rule 26-1(e)(2) regarding privilege logs including the exclusion of communications between counsel after the filing of the litigation. Subsection (3) of new Section (G) was derived from Southern District of New York Local Rule 26.2(c) regarding the use of "categorical" privilege logs. See also Rule 26 advisory committee notes of the 1993 amendment ("The rule does not attempt to define for each case what information must be provided when a party asserts a claim of privilege or work product protection. Details concerning time, persons, general subject matter, etc., may be appropriate if only a few items are withheld, but may be unduly burdensome when voluminous documents are claimed to be privileged or protected, particularly if the items can be described by categories")*

Rule 7026-2. E-Discovery.

(A) General. The Court's e-discovery goal is to facilitate fair, open, and proportional discovery of the facts underlying a dispute so that the dispute is resolved on the merits and not by gamesmanship. Achieving this goal requires cooperation among counsel. It is expected that parties to a contested matter or adversary proceeding will cooperatively reach agreement on how to conduct e-discovery. The discovery of electronically stored information ("ESI") stands on equal footing with the discovery of paper documents. The parties should exercise reason and good faith at all times, including, without limitation, when discussing issues concerning ESI.

(B) Preservation. A party has a duty to retain ESI that may be relevant to pending or reasonably anticipated litigation. The scope of a party's preservation obligation is determined on a case-by-case basis. Preservation issues, to include each party's records management policies and procedures, ideally should occur before suit is filed but certainly no later than the conference required by the Court's Order Setting Status Conference and Establishing Procedures for Determination of Adversary Proceeding (and, with respect to any contested matters where application of Fed. R. Civ. P. 26(f) is ordered by the Court pursuant to Fed. R. Bankr. P. 9014(c)) (the "Rule 26(f) Conference"). On the topic of preservation, counsel should be informed and otherwise prepared to articulate both good cause for the preservation of ESI and the costs and burdens of maintaining ESI.

(C) ESI Conference. The following is a list of topics counsel should discuss before or at the beginning of the adversary proceeding or contested matter, and no later than the Rule 26(f) Conference in an adversary proceeding or in a contested matter where Rule 26(f) has been made applicable by court order. In other contested matters, such discussions should occur before or concurrently with the service of written discovery. Counsel are strongly encouraged to include their clients' information technology employees and vendors in these discussions. Counsel is expected to be prepared to discuss each of the following topics to the extent possible based on the state of the pleadings and, where a meaningful discussion on any particular topic is precluded by the state of the pleadings, the parties must agree on a date by which a further conference will occur, agree on a date for a mutual exchange of supplemental information, and/or submit the issue(s) for resolution by the Court:

- (1)** The format or formats of ESI that will be most likely to provide the information needed to establish the relevant facts in the adversary proceeding or contested matter.
- (2)** The locations and sources where relevant ESI is likely to be found. This includes the identity of people likely to have relevant ESI and their titles and responsibilities.
- (3)** Reasonable steps to preserve ESI.
- (4)** The relevant time period(s).

- (5) The manner and forms of preservation and production including the production of live database-based materials. *See* Fed. R. Civ. P. 34(b).
 - (6) The need for metadata and the types of metadata that will be preserved and produced, including:
 - (a) the potential relevance of the metadata;
 - (b) the importance of reasonably accessible metadata to facilitate the parties' review, production and use of ESI; and
 - (c) the locations of metadata that will be sought in discovery.
 - (7) The accessibility of ESI in the form requested.
 - (8) The requesting party's ability to manage and use ESI in the form requested.
 - (9) The risks associated with the inadvertent production of privileged or confidential information associated with the different forms of production.
 - (10) The difficulty of redacting ESI in the form requested.
 - (11) The extent to which alternative forms of production will satisfy a party's needs.
 - (12) The relative costs and other burdens associated with production, review and processing ESI.
 - (13) The allocation of the costs of production.
 - (14) The use of search terms, sampling, de-duplication, "quick-peeks," technology-assisted review methods including, for example, predictive coding and other strategies to reduce the volume of ESI that must be preserved and produced.
 - (15) How to deal with issues of confidentiality and privilege including the use of "claw-back agreements."
 - (16) Tiered discovery in which ESI is produced sequentially in tranches.
 - (17) Disposal of ESI at the appropriate time.
- (D) Procedure.** Counsel is expected to have sufficient technical knowledge to propound educated and reasonable requests for ESI and to provide educated and reasonable responses to requests for ESI, as applicable. To reduce the volume and expense of discovering ESI, requests for production should, to the extent possible, clearly specify what is being sought including by topic and reference to persons involved. Responses to requests for ESI should state objections and the reasons for such objections clearly and specifically. Responses to requests for ESI should

(E) also clearly state the extent to which discovery of ESI will be permitted, the sources from which ESI has been obtained, and potential sources of ESI that were not searched.

- (1) Rule 34(b) establishes that unless requested in another form, the producing party must produce electronically stored information in the form or format in which it is usually maintained or in a form or format that is reasonably usable. The Rule permits testing and sampling as well as the inspection and copying of ESI. Ordinarily, information should only be produced once, i.e., electronically or by paper copies, not both.
- (2) Ordinarily, the costs of discovery will be borne by each party, however, the Court may apportion the costs of electronic discovery upon a showing of good cause.
- (3) Electronic searches of documents identified by a party as being of limited accessibility ordinarily will not be conducted until the initial electronic document search has been completed in response to a request. Requests for information expected to be found in limited accessibility documents must be narrowly focused with some basis in fact supporting the request. Documents of limited accessibility include documents created or used by electronic media no longer in use, maintained in redundant electronic storage media, or for which retrieval involves substantial cost.
- (4) Inspection of an opponent's computer system is the exception, not the rule and the creation of forensic image backups of computers should only be sought in exceptional circumstances that warrant the burden and cost and in which good cause and a specific need have been demonstrated. A request to image an opponent's computer should include a proposal for the protection of privacy rights, protection of privileged information, and the need to separate out and ignore non-relevant information.

(F) **Privilege.** Except to the extent that a "claw-back agreement" establishes a different procedure by agreement, electronic documents that contain privileged information or attorney work product must be immediately returned if the documents appear on their face to have been inadvertently produced or if there is notice of the inadvertent production within 28 days of such inadvertent production.

(G) **Discovery from Non-Parties.** Rule 45 does not require a party issuing a subpoena for ESI to a non-party to confer with the non-party in advance. Nevertheless, where practical, the party issuing the subpoena and the non-party responding to the subpoena should discuss, in advance, the same issues a party would discuss with an opposing party before commencing discovery of ESI. Except as otherwise ordered by the Court, once produced, metadata is reviewable without notice to the producing party.

☞ 2020 Amendment: New Local Rule 7026-2 is adapted in part from United States Bankruptcy Court for the Middle District of Florida Local Rule 7026-2 and United States Bankruptcy Court for the District of Delaware Local Rule 7026-3.

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 proceeding 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; Deadline for Motions for Attorney Fees and Motions for Costs Requiring Court Order.

(A) Costs Taxable by the Clerk. The clerk shall tax costs only where the judgment entered by the court specifically awards costs to the prevailing party. The clerk shall tax only those costs permitted by the court's "Guidelines for Taxation of Costs" and any costs not identified under 28 U.S.C. §1920 but awarded as recoverable in a Bill of Costs by a separate court order. Request for attorney fees shall not be presented or taxed in a Bill of Costs.

(B) Local Form Bill of Costs. Parties requesting taxation of awarded costs shall submit to the clerk a proposed Local Form "Bill of Costs" and file a certificate of service in accordance with Local Rule 2002-1(F). The clerk may require the submission of supporting documentation prior to determination of the bill of costs.

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

(D) Notice to Parties of Costs Taxed by Clerk. The clerk shall review the proposed bill of costs and tax costs on 14 days' notice. The issued bill of costs shall be served by the clerk on all parties.

(E) Court Review of Costs Taxed by Clerk. On motion timely filed and served within seven days as provided by Bankruptcy Rule 7054(b)(1), the action of the clerk under section (D) of this rule, may be reviewed by the court.

(F) Deadline for Motions for Attorney Fees and Motions for Costs Requiring Separate Court Order. Motions for attorney fees required under Bankruptcy Rule 7054(b)(2)(a) and requests for costs which require a separate order under subdivision (A) of this rule shall be considered only upon motion to the court filed within 14 days after entry of the judgment. A certificate of service must be filed in accordance with Local Rule 2002-1(F).

[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 or affirmed 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) Court Registry Investment System. By administrative order, the Court has authorized that all funds deposited with the Court registry shall be maintained in an interest-bearing account in the Court Registry Investment System ("CRIS"), which is administered by the Administrative Office of the United States Courts.

(B) Fee. Registry account funds shall be assessed fees from interest earnings in the amount set forth in the Bankruptcy Court Miscellaneous Fee Schedule and in the manner described in this Court's administrative order authorizing "CRIS".

(C) **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.

(D) **Exceptions.**

(1) **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.

(2) **Funds Deposited Directly Into U.S. Treasury Account.** Unclaimed funds deposited under Local Rule 3011-1 by a trustee or disbursement agent in a chapter 11 case, shall be deposited directly into the U.S. Treasury Account. Neither registry fees nor interest shall accrue on these funds.

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. Required Notice to Garnishee.** 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 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, a proposed order, and prepared writ.

- (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.

(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 Status Conference and Pretrial Conference and Trial.

(A) **Continuance of Adversary Proceeding Status Conference.** Except for brief continuances sought pursuant to Local Rule 7004-2(B) or to accommodate the schedules of counsel (or the parties, if unrepresented), the Court will continue the status conference only in extraordinary circumstance. Any request to continue an adversary proceeding status conference or any deadlines set forth in the Order Setting Status Conference and Establishing Procedures and Deadlines must: (1) be presented by written motion filed no later than the earlier of two business

days before the status conference, or as soon as a scheduling conflict is identified; (2) set forth the status of service of process, the pleadings, and the pendency of any potentially dispositive motions; and (3) state the reasons why the party or parties seek a continuance.

(B) Continuance of Pretrial Conference 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, or as soon as a scheduling conflict is identified. 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 (4) the status of the litigation, including exchange of initial disclosures and status of discovery. The moving party must submit a proposed order that 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 of a pretrial conference or trial 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).]

 2020 Amendment: Amendment includes a new subsection A) addressing the procedure to be used for continuances following the Court's adoption of adversary proceeding status conferences.

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(c).

(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 8003. 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. Notice of Appeal. Required Content and Fee. A notice of appeal must conform substantially to the Official Bankruptcy Form. 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 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(c).

Rule 8004-1. Motions for Leave to Appeal.

(A) Filing Fee Must Accompany Motion. 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(c).

(B) Appellate Docketing Fee Payment Deadline. 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 8007-1. 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(d). If a stay pending appeal has been granted by the district court the bankruptcy court clerk will receive electronic notice from the district court by Notice of Electronic Filing ("NEF") of entry of the order in the district court case and shall docket the order in the bankruptcy case or proceeding.

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

Rule 8009-1. 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 8009, this court shall dismiss the appeal as authorized by District Court Local Rule 87.4(c).

(B) Ordering Transcripts. The Local Form "Transcript Request Form" provided by the clerk shall be used to order any untranscribed portion of the record. A copy of the prepared "Transcript Request Form" shall be filed with the clerk at the time of filing the designation. 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 8010-3. Determination of Motion - Appeal. A motion to dismiss or other request for intermediate relief as contemplated under Bankruptcy Rule 8010(c) shall be filed directly with the district court in accordance with District Court Local Rule 87.4(d).

Rule 8021-1. Taxation of Appellate Costs by Clerk.

(A) Authority to Tax Costs. The clerk shall only tax those costs as permitted by Bankruptcy Rule 8021(c) and in accordance with the court's "Guidelines for Taxation of Costs".

(B) Local Form Bill of Costs. Parties requesting taxation of allowed costs shall submit to the clerk a proposed Local Form "Bill of Costs" and file a certificate of service in accordance with Local Rule 2002-1(F). The clerk may require the submission of supporting documentation prior to determination of the bill of costs.

(C) Deadline for Filing. The proposed bill of costs shall be submitted not later than 14 days after entry of the judgment on appeal of the district court.

(D) Notice to Parties of Costs Taxed by Clerk. The clerk shall review the proposed bill of costs and tax costs on 14 days' notice. The issued bill of costs shall be served by the clerk on all required parties.

(E) Court Review of Costs Taxed by Clerk. On an objection filed and served within 14 days as provided under Bankruptcy Rule 8021(d), the action of the clerk under section (D) of this Rule, may be reviewed by the court.

[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”).]

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.

(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”.]

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 3002.1-1, 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 3002.1-1, 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.

Rule 9011-1. Signatures and Document Retention

(A) Petitions, lists, schedules and statements, amendments, pleadings, affidavits, and other documents which must contain original wet ink signatures or which require verification under Fed. R. Bankr. P. 1008, or an unsworn declaration as provided in 28 U.S.C. § 1746, must be filed electronically and may include, in lieu of the original wet ink signature, a signature in any of the signature types set forth in subparagraphs 1 and 2 of subparagraph B below.

(B) As used in these local rules and the Federal Rules of Bankruptcy Procedure, all of the following constitute a signature on an electronically filed document:

- (1)** A copy or digitally scanned image of the entire originally signed document containing a wet ink signature; or
- (2)** An original wet ink signature on an original document.

Subject to paragraph D below, a filing party may indicate a signature of any party to a document by showing “/s/” followed by the printed name of the signatory where the filing party has received the signature of the signatory. If the filing party has relied upon (B)(1) above for the signatory’s signature, the filing party must obtain the original document containing the wet ink signature from the signatory within 14 days from the date of the filing party’s receipt of the copy or digitally scanned image of the document containing the wet ink signature.

(C) Prior to filing, the debtor's attorney/filer must:

- (1)** Verify with the signer that the signer has received the entire document(s) to be signed;
- (2)** Communicate with the signer regarding the substance and purpose of the signed document;
- (3)** Receive back from the signer and be in possession of the entire document, including the signature page, that contains either a digital or scanned image of the signed document from the signer; and
- (4)** Obtain express authorization from the signer to file the document.

(D) An attorney’s use of the login and password issued for CM/ECF constitutes the signature of the attorney and client(s) for all purposes, including Fed. R. Bankr. P. 9011.

(E) Any electronically filed document containing “/s/” for a debtor or non-filing party in lieu of one of the other signature types referenced in paragraph B above constitutes a representation under penalty of perjury by the registered CM/ECF filer that he or she has the document with the signature of such party or, if the signing party is also a registered CM/ECF filer, that the filing party has evidence of permission to indicate the party’s signature by use of “/s/.” The registered CM/ECF filer must retain the original signed document with the original wet ink signature and, if

applicable, the digitally scanned image of the originally signed document containing a wet ink signature, for at least 5-years from the later of the date of entry of the order of discharge, the date on which the case is dismissed, or the date on which all appeals are finally resolved. Upon request, the signed document, digitally scanned image, or evidence of permission must be provided to other parties or the Court for review.

(F) Notwithstanding any other provision to the contrary, there is no record retention requirement for electronically filed proofs of claim.

☞ 2020 Amendment: *The new Local Rule 9011-1 abrogates the existing local rules regarding signatures and document retention. In order to file a document electronically with the signatory's signature indicated by "/s/" followed by the printed name of the signatory, lawyers may accept a copy or digitally scanned image of the entire document with a wet ink signature by the signatory, in addition to the existing requirement of the lawyer obtaining the original wet ink signature of a signatory on a document. If the attorney is relying upon a copy or digitally scanned image of the document with the wet ink signature, the attorney must obtain the version of the document with the signatory's original wet ink signature within 14 days after the attorney's receipt of the digital or scanned image of the document. Both the document with the original wet ink signature and, if applicable, the digital image upon which the attorney relied in order to file the document electronically, must be retained for a 5-year period after the case is closed and all appeals are resolved. For purposes of clarification, it is insufficient for the attorney to receive solely the signature page with the image of the wet ink signature from the signatory; the signatory must transmit an electronic file with the entire document containing an image of the wet ink signature on the signature page.)*

Rule 9011-4. Identification and Certification of Attorney; and Verification of Debtor's Social Security Number.

(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, e-mail 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(C)(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) 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 About Your Social Security Numbers" (including any amendments), and must keep the original signed document for the time provided by Local Rule 9011-1 and file the form with the court. 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 About Your Social Security Numbers") is the same number entered in CM/ECF and appearing on the initial §341 notice of commencement of case to ensure correct numbers are reflected in the court's records.

(D) [Abrogated]

 2020 Amendment: *Local Rule 9011-4(D) is abrogated and is substituted by Local Rule 9011-1.*

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(B) 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.]

- (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 status conference and pretrial conferences and trial).]

- (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) (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 **non-individual** chapter 11 cases.

[Comment: See Local Rule 3017-2.]

- (15) Motions for Orders Confirming Termination of Automatic Stay.

- (a) Motions for Orders Confirming Termination of Automatic Stay. Such motions will 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 (1) a statement that no order continuing the stay has been entered under §362(c)(3)(B), and (2) a proposed order confirming termination of the stay and which sets forth the statement attested to by the creditor in the required certificate.
- (b) Motions for Orders Confirming That Automatic Stay is Not in Effect Under 11 U.S.C. §362(c)(4)(A)(i). Such motions will 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 (1) a statement that no order imposing the stay has been entered under §362(c)(4)(B), and (2) a proposed order confirming that no stay is in effect which sets forth the statements attested to by the creditor in the required certificate.
- (c) Motions for Orders Confirming Termination of Automatic Stay in confirmed Chapter 13 cases in which the debtor's confirmed plan provides for treatment of a creditor's claim outside of the chapter 13 plan; provides for the surrender of creditor's collateral; or fails to provide for creditor's claim. Such motions (1) will be considered at any time after entry of the order confirming chapter 13 plan, (2) must be accompanied by a certificate which recites the facts which establish that (A) the debtor's chapter 13 plan has been confirmed, (B) such plan provides for treatment of creditor's claim outside of the chapter 13 plan, or for surrender of creditor's collateral, or failed to provide for creditor's claim, and (3) must include a proposed order confirming that no stay is in effect with respect to the exercise of creditor's *in rem* remedies and which sets forth the statements attested to by the creditor in the required certificate.

[Comment: New subsection (c) of Local Rule 9013-1(C)(15) is contingent upon approval of the 2020 Amendment to Local Rule 4001-1.]

- (16) Motions for Order Confirming That Automatic Stay is Not in Effect Under 11 U.S.C. §362(b)(23). Such motions shall be considered without hearing 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 movant's submittal of a proposed order including in the order's preamble the following: "and the movant by submitting this form of order having represented that the motion was served on the debtor and counsel for the debtor, that the 14-day response time has expired, that the debtor has not filed, or served

on the movant, a response to the motion, and that the relief to be granted in this order is the identical relief requested in the motion.”

- (17) Trustee’s motions to pay debtors their allocable portion of any tax refund.
- (18) 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.
- (19) 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.
- (20) Debtor’s motion to reopen case to file Official Bankruptcy Form “Certification About a Financial Management Course”.

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

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

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

- (22) Joint motions for substitution of counsel under Local Rule 2091-1.
- (23) Motions to continue a pretrial conference in an adversary proceeding, following issuance of an alias or pluries 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.
- (24) Motions to redact personal information under Local Rule 9037-1.

☞ 2020 Amendment: *Local Rule 9013-1(C)(15) makes motions for orders confirming termination of the automatic stay its own section of the rule [Section (C)(15)] and now allows for motions to confirm termination of the automatic stay to be filed ex parte in chapter 13 cases where a debtor’s confirmed plan provides for the surrender of creditor’s claim, direct treatment of creditor’s claim, or fails to provide for creditor’s claim. Former Local Rule 9013-1(C)(16) and (17) are renumbered as subsections (b) and (d) of L.R. 9013-1(C)(15), and each of subsections (18) through (25) will be renumbered from (16) to (23).*

(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 described in this rule may not be used for any motion that includes a request for relief against a pro se debtor, and for those motions, objections or notices governed by other negative notice procedures included in these local rules, as described in: Local Rules 3007-1(D) (objections to claims), 4001-1(C) (motions for stay relief), 6004-1(D) (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 require the filing of separate motions.

☞ 2020 Amendment: *The 2020 Amendment to Local Rule 9013-1(D)(1)(a) makes it clear that the negative notice procedure described in this local rule is inapplicable to motions, objections or notices governed by other negative notice procedures in these local rules, such as Local Rules 3007-1(D) (objections to claims), 4001-1(C) (motions for stay relief), 6004-1(D) (certain notices of sale), and 6007-1(B)(1) (certain notices of abandonment). The Amendment also corrects the reference to Local Rule 6004-1(D) for “certain notices of sale”.*

- (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 bold print :

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, a proposed order pursuant to Local Rule 5005-1(G), including the following language in the order’s preamble:

“and the movant by submitting this form of order having represented that the motion was served on all parties required by Local Rule 9013-1(D), that the 21-day response time provided by that rule has expired, that no one has filed, or served on the movant, a response to the motion, and that the form of order was attached as an exhibit to the motion;”

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 amend schedules to add omitted creditors;
 - (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;

- (k) multi-part motions to reopen case and to avoid judicial lien on exempt property (Bankruptcy Rule 4003(d)); and
- (l) a motion filed under Bankruptcy Rule 5009(d) for an order declaring a lien satisfied.

(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 CHAPTER 11 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.
- (m) motions in a Chapter 13 case, except motions for relief from the automatic stay provided for under Local Rule 4001-1(C)(2) and Local Rule 9013-1(C)(15)(c), and for certain motions provided for in the Southern District's Mortgage Modification Mediation Program.

[Comment: The portion of new Subsection (e) that provides for negative notice for motions for relief from stay is contingent upon approval of the 2020 Amendment to Local Rule 4001-1 and Local Rule 9013-1(C).]

 2020 Amendment: *Local Rule 9013-1(D) creates new subsection (m) that clarifies that negative notice motions are not permitted in Chapter 13 cases except for certain stay relief motions provided for under Local Rules 4001-1(C)(2) and 9013-1(C)(15)(c), and certain motions provided for in this District's Mortgage Modification Mediation Program).*

(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, be 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, unless the motion includes a request that the case be immediately converted to another chapter; or
- (2) If the debtor is pro se, be accompanied by a photocopy of the cashier's 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, unless the motion includes a request that the case be immediately converted to another chapter.

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.

Unless otherwise ordered by the court, a dismissed Chapter 13 case will not be reinstated unless, as of the hearing date on the motion to rehear, reconsider or reinstate a dismissed case, the debtor is current under the most recently confirmed plan, or the last plan filed prior to dismissal if the case was dismissed prior to confirmation.

[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).]

☞ 2020 Amendment: Local Rule 9013-1(E) clarifies that a dismissed Chapter 13 debtor must be current under the most recently confirmed plan in order for a Chapter 13 case to be reinstated. If the case was not confirmed prior to dismissal, the debtor must be current under the last filed plan prior to the case's dismissal).

(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.

(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 must 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 must 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;
 - (d) whether debtor is current in payments due to each such utility, the amount owed to each utility as of the petition date, and an estimate of the average monthly utility bill owed to each utility;
 - (e) any request for an order scheduling a hearing to resolve disputes regarding assurance; and
 - (f) the following bulletin above the preamble and below the title of the motion in bold print:

Any utility who fails to file with the Court and serve debtor's counsel a written response to this motion at least two business days prior to the

scheduled hearing on this motion, pursuant to Local Rule 9013-1(L), will be deemed to have consented to the entry of an order in the form attached to this motion (unless the hearing is set on less than five days' notice). Any scheduled hearing may then be canceled.

- (3) Objection.** The utility company must 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 must 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.
- (6) Content of Order If No Objection Filed and Hearing is Canceled.** If no objection is filed or served to a motion filed in compliance with subdivision (2) and the court cancels the scheduled hearing on such motion, then the debtor must submit a proposed order including the following language in the order's preamble:

“and the movant by submitting this form of order having represented that the motion was served on all interested parties required by Local Rule 9013-1(L), that the response time provided by that rule has expired, that no one has filed, or served on the movant, a response to the motion, and that the form of order was attached as an exhibit to the motion;”

☞ 2020 Amendment: Local Rule 9013-1(L) supplements the required content of a motion – when required under this rule – to a utility provider to include whether or not the debtor is current with a utility, the amount owed as of the petition date, and an estimated average monthly bill. The amendment also now requires debtor or debtor's counsel to insert a bulletin in bold-faced type at the beginning of the motion relating to adequate assurance of future payment to a utility service, that provides the deadline by which the utility must file and serve a written objection to the relief sought in the motion in order for the utility to contest the proposed adequate assurance.

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).]

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 from Cases in Other Districts. A motion seeking a compliance determination in this court as provided for by Fed. R. Civ. P. 45 regarding a subpoena issued in another district must be initiated by filing a miscellaneous proceeding, accompanied by the required filing fee.

Rule 9019-1. Settlement of Matters.

(A) 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 submit a proposed order pursuant to Local Rule 5005-1(G), including the following language in the order's preamble:

"and the movant by submitting this form of order having represented that the motion was served on all parties required by Bankruptcy Rule 2002 or Local Rule

2002-1(H), (I) or (J), that the 21-day response time provided by Local Rule 9013-1(D) has expired, that no one has filed, or served on the movant, a response to the motion, and that the form of order was attached as an exhibit to the motion”.

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.

(B) Any stipulation to settle an adversary proceeding or contested matter with a pro se debtor must be set for 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)** (i) have completed a minimum of 40 hours in a circuit mediation training program certified by the Florida Supreme Court, (ii) have completed the American Bankruptcy Institute/St. John's University School of Law Bankruptcy Mediation Training, or (iii) be certified by the Florida Supreme Court as a circuit court mediator; and
- (b)** 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 mediator 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 or to Participate in Good Faith.** The mediator shall report to the court the complete failure of any party to attend the mediation conference and shall report to the court the failure of any party to participate in the mediation process in good faith, either of which failures 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) [Abrogated.]

 2020 Amendment: *Local Rule 9021-1(C) is abrogated.*

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 elected to receive notices electronically in lieu of U.S. Mail service by either registering directly with the BNC EBN Program or, for debtors only, by registering directly with the clerk of court for DeBN noticing as provided under subdivision (C) of this Rule.

(C) Debtor Electronic Bankruptcy Noticing (DeBN). Debtors may elect to receive documents served by the clerk of the U.S. Bankruptcy Court electronically from the BNC under the DeBN program in lieu of by paper notice by filing the Local Form "Debtor's Request to Receive Notices Electronically Under DeBN Program". Debtor participation in DeBN does not constitute consent by the debtor to receive electronic notice from other parties, including attorneys and trustees. Documents not served by the clerk under DeBN must be served conventionally (non-electronic) on debtors as authorized under FRBP 7004 and 7005(b).

Rule 9037-1. Procedure for Requiring the Filing of Redacted Documents.

A party seeking to redact personal information as set forth in Local Rule 5005-1(A)(2) may file an ex parte motion, with the proposed redacted document attached as an exhibit, 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 must upload a proposed order granting the ex parte motion. Within five business days of entry of an order granting the ex parte motion, the movant must file, as a separate document, the redacted document. Except for redaction of personal identifiers, the redacted document must be identical to the one previously filed. The clerk ~~may~~ will restrict public access to the unredacted document containing personal identifiers pending entry of an order granting the ex parte motion. If the document requiring redaction is a proof of claim, the filer of the original proof of claim must file a redacted proof of claim. 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 must be served by the movant on the debtor, debtor's attorney, filer of the unredacted document, any individual whose personal identifiers have been exposed, the case trustee (if any), and the U.S. trustee. The original filed document will remain restricted to preserve the full record.

☞ *2020 Amendment: The 2020 Amendment clarifies the procedure for restricting filings that contain personal information, and moves the amended rule to Local Rule 9037-1 to be consistent with the Federal Rules of Bankruptcy Procedure which provides for privacy protection for filings made with the court in Rule 9037. The moving party must now file – as a separate docket entry – the redacted document in substantially identical form (with the appropriate redaction of PII) to the document previously filed, within 5 business days of the entry of the order granting the motion. New Local Rule 9037-1 make clear that the order on the motion to redact must also be served on the debtor's attorney and the filer of the unredacted document.*

Rule 9070-1. Exhibits.

(A) General Provisions for Electronic Submission and Exchange of Exhibits.

- (1) **Submission and Exchange of Exhibits When All Parties Are Represented by Counsel.** If all parties in an adversary proceeding or contested matter are represented by counsel, unless the Court orders otherwise, exhibits must be exchanged and submitted via CM/ECF by no later than **4:00 p.m. four business days** before the scheduled trial or evidentiary hearing. The filing of exhibits via CM/ECF will constitute the parties' delivery of exhibits to opposing parties as required by the Order Setting Filing and Disclosure Requirements for Pretrial and Trial (the "Pretrial Order") entered in an adversary proceeding, or any similar scheduling order entered in connection with any contested matter. Instructions on the CM/ECF Electronically Stored Exhibit Upload are located on the Court's website at www.flsb.uscourts.gov.
- (2) **Submission of and Exchange of Exhibits When a Party Is Not Represented by Counsel.** If any party in an adversary proceeding or contested matter is not represented by counsel (a "pro se" party), then:
 - (a) Submission of Exhibits by a Pro Se Party. Each pro se party must submit her or his exhibits by sending them as Portable Document Format (PDF) files to the Clerk of the Court by electronic mail to the following email address: Proseexhibits@flsb.uscourts.gov, no later than **4:00 p.m. four business days** before the scheduled trial or evidentiary hearing. The Clerk will upload exhibits of pro se parties via CM/ECF. This procedure will also constitute the pro se party's exchange of exhibits with any represented

parties. Exchange of exhibits with any other pro se party, however, must be done in accordance with subsection (A)(2)(c).

- (b) Submission of Exhibits by a Represented Party. Represented parties must, no later than **4:00 p.m. four business days** before the scheduled trial or evidentiary hearing, submit their exhibits via CM/ECF. This procedure will also constitute the represented party's exchange of exhibits with any other represented parties. Exchange of exhibits with any pro se party, however, must be done in accordance with subsection (A)(2)(c).
 - (c) Exchange of Exhibits with a Pro Se Party. Exhibits to be exchanged with a pro se party must be provided by email or via a cloud-based file-sharing service (with receipt confirmed by the pro se party). In the event a pro se party is unable to receive copies of exhibits by email or via a cloud-based file-sharing service, the party submitting the exhibits must make alternative arrangements (including providing copies on a USB flash drive or, as a last resort, paper copies via express overnight delivery service) to provide copies of its exhibits.
- (3) **Objections to Exhibits.** Any objection to the admissibility of any proposed exhibit must be filed and served, so as to be received no later than **4:00 p.m. two business days** before the scheduled trial or evidentiary hearing. Objections to any deposition transcripts, including a recording (audio or video) or summary thereof, must follow the procedure specified in this paragraph:
- (a) The objection must: (i) identify the exhibit, (ii) state the grounds for the objection, and (iii) provide citations to case law and other authority in support of the objection.
 - (b) An objection not so made – except for one under Federal Rule of Evidence 402 or 403 – is waived unless excused by the Court for good cause.
- (4) **Compliance with Federal Judiciary Privacy Policy and Local Rule 5005-1(A)(2)(a).** All exhibits submitted for filing must comply strictly with the federal judiciary privacy policy and Local Rule 5005-1(A)(2)(a). Any party submitting an exhibit containing (i) unredacted personal identifiers (including, without limitation, full social security numbers, names of minor children, dates of birth, and financial account numbers), (ii) trade secrets or other confidential research, development, or commercial information, (iii) scandalous or defamatory matter, or (iv) matters that are made confidential by statute or regulation (collectively, "Confidential


Information”), may be sanctioned. Sanctions may include striking pleadings, motions, or other papers; limiting or prohibiting the use of any or all exhibits (not just the improperly submitted exhibits); and other sanctions in the Court’s discretion. If a party determines that any Confidential Information should be considered by the Court at the trial or evidentiary hearing, that party must nevertheless submit redacted copies of its exhibits in accordance with subsections (A)(1) and (A)(2) of this Local Rule and seek authority to file the unredacted exhibits under seal as provided for in Local Rule 5005-1(A)(4).

- (5) Exhibit Registers and Numbering of Exhibits.** Each party must prepare a separate exhibit register based upon the Local Form “Exhibit Register”. All exhibits must include the party’s role in the matter or adversary proceeding (i.e., ‘movant” or “respondent”, “plaintiff” or “defendant”) and be sequentially numbered. After the conclusion of the trial or evidentiary hearing, the courtroom deputy will file a completed Exhibit Register in the case or adversary proceeding docket.
- (6) Format of Exhibits.** Each exhibit must be electronically stored in an individual PDF file, limited to a file size no greater than 50MB. Each PDF file must have a unique identification name and number (e.g., “Plaintiff’s Exhibit 1”). To facilitate the filing of exhibits via CM/ECF, the individual PDF files should be contained in a single folder.
- (7) Oversized Exhibits and Exhibits Other than Paper Documents.** If a party wishes to introduce into evidence an oversized exhibit or an exhibit that is not a paper document, the party must scan or photograph the evidence, convert the file to a PDF or JPEG file (as applicable), and list the item on the Local Form “Exhibit Register”. The submitting party must, if physically possible, then bring the actual oversized exhibit or physical object to court for the trial or evidentiary hearing. Unless the Court orders otherwise, at the conclusion of the trial or evidentiary hearing at which an actual oversized exhibit or physical object is offered into evidence, the Clerk will return the original exhibit to counsel. If an appeal is taken, only the PDF or JPEG file with the scan or photographic image of the exhibit will be included in the record on appeal.

(B) Procedure for Use of Electronically Stored Exhibits.

- (1) Use of Electronically Stored Exhibits in Court.** The electronically stored exhibits filed via CM/ECF Electronically Stored Exhibit Upload are the official exhibits for purposes of the trial or evidentiary hearing.

- (2) **Additional Exhibits.** If any additional exhibits that were not uploaded via the CM/ECF Electronically Stored Exhibit Upload are offered or introduced into evidence during the course of the trial or evidentiary hearing, a complete set of such additional exhibits must be filed via the CM/ECF Electronically Stored Exhibit Upload with the title “[Party’s Name]’s Additional Exhibits” within three days after the conclusion of the trial or evidentiary hearing.

 *2020 Amendment: Local Rule 9070-1 revises the procedure for submission of exhibits by requiring all exhibits to be submitted electronically, by registered CM/ECF users via the CM/ECF Electronically Stored Exhibit Upload, and by pro se parties via email.*

Rule 9071-1. [Note: 9071-1 is a reserved rule number.]

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 upload 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) **Notice of Hearing. Preparation by Clerk for Service by Required Party.** Except for those matters self-calendared under section (C) of this rule, 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 within the time required by any applicable rule or order of the court, 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) Filing of Certificate of Service of Notice of Hearing. No certificate of service is required when all parties entitled to service of a notice of hearing have received service by CM/ECF. In such instances, the clerk's docketed notice of hearing constitutes sufficient service of the notice of hearing for the requested relief. If, however, a notice of hearing is required to be served on one or more parties who do not receive CM/ECF service, then the movant must serve that notice of hearing and file a certificate of service as required under Local Rule 2002-1(F). The certificate of service must list solely the interested parties to whom the movant served that notice of hearing and describe the manner of and date on which service of the notice of hearing occurred. If a certificate of service is not filed by the movant, it will be treated as a representation by the movant that all interested parties have been served through CM/ECF. 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.

✍ 2020 Amendment: Local Rule 9073-1(B) removes the requirement of filing a certificate of service for a notice of hearing when all interested parties are receiving service via the Court's CM/ECF. If this rule is amended, the movant would only be obligated to serve the notice of hearing (and file a certificate of service of the same) for parties who are not receiving service via CM/ECF.

(C) Self-Calendaring of Certain Matters. The court has issued guidelines for self-calendaring. Attorneys and trustees who self-calendar hearings must serve notice and file a certificate of service as required by subsections (A) and (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).]

(E) Notice of Pending Matters. With respect to any motion, application, or other matter:

- (1)** as to which the Court has conducted a hearing, but has neither set a subsequent hearing nor entered an order or otherwise determined the motion, application, or other matter within ninety (90) days of the last hearing directed to such motion, application, or other matter, or

- (2) that is pending and fully briefed with no hearing set thereon for a period of ninety (90) days,

the movant or applicant must serve on all parties and other interested persons within fourteen (14) days thereafter a “Notice of Matter Pending for Ninety Days” which must contain (a) the title, docket entry number, and filing date of the subject motion or other application, (b) the title, docket entry number, and filing date of any and all responses, opposing or supporting memoranda, replies, or other substantive papers directed to the motion or application, or if no such papers have been filed, the date on which such papers were due, and (c) the date(s) of any hearing(s) held on the motion, application, or other matter.

2020 Amendment: Amendment creates an additional provision to Local Rule 9073-1 (Section “E” – Notice of Pending Matters). This rule is adapted from the district court’s rule 7.1(b)(4) and, like the district court’s rule, requires that the notice be filed by the movant or applicant when 90 days have elapsed after a matter is fully briefed if there is no hearing or, if there is a hearing, after the hearing. Language is added to recognize the possibility of a subsequent hearing. New Section 1(E) retains the district court’s language that makes the notice a requirement rather than an option, and also retains the 90 day time period).

Rule 9074-1. Appearance by Telephone.

(A) General Eligibility Requirements. Unless the presiding judge otherwise specifically directs, there is no geographic limitation regarding who may appear by the telephonic procedure in this rule. When appearing pursuant to this rule, parties must be familiar with the presiding judge’s guidelines on telephonic appearances found on the judge’s homepage on the Court’s website maintained at www.flsb.uscourts.gov.

(B) Restrictions. Unless the presiding judge otherwise specifically directs, telephonic appearances are permitted in routine, non-evidentiary matters. Counsel appearing telephonically may not use a speakerphone; a handset or headset must be used.

(C) Procedure. Parties wishing to appear telephonically must follow the presiding judge’s scheduling procedures for telephonic appearances described on such judge’s homepage on the Court’s website maintained at www.flsb.uscourts.gov. If there is an equipment failure for any reason, the judge will continue with the hearing without participation of counsel or the party appearing telephonically. Persons appearing by phone assume the risk of the prejudice that may result from not being present in person and possibly being unable to therefore advance the party’s points in favor of, or in opposition to, the relief requested.

2020 Amendment: Amendment to Local Rule 9074-1 removes the explicit geographic restriction, and revises the language generally for attorneys intending on appearing

telephonically to comply with each Judge's guidelines for telephonic appearances, found on the District's official court website.

Rule 9075-1. Emergency Motions. If a motion or other paper requests an emergency hearing, the title of the motion or paper must include the words "Emergency Hearing Requested". Any motion or paper requesting an emergency hearing must 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. The filing party must promptly notify the courtroom deputy or law clerk of the hearing judge, in the manner specified on the hearing judge's homepage on the Court's website maintained at www.flsb.uscourts.gov, that such motion or paper has been filed and the ECF number assigned to such filing. The filing party must send such motion or other paper by email (in addition to any notice of electronic filing generated by the CM/ECF system) promptly after filing to all interested parties for whom an email address is reasonably ascertainable and, for all other parties, by telecopier or other means reasonably calculated to ensure prompt receipt. The requirements of this rule are in addition to the service requirements set forth in the Bankruptcy Rules and these local rules.

[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 CM/ECF generated NEF **(including service required by Fed. R. Bankr. P. 7004(g))**, except that such consent does not constitute acceptance of service of a summons and complaint in lieu of service on the party represented. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Bankruptcy Rule 9022.

☞ 2020 Amendment: Amendment to Local Rule 9076-1(A) to reflect that service of a summons and complaint via the NEF (for registered users who have appeared in the case) constitutes service on the debtor's attorney under Bankruptcy Rule 7004(g), but does not constitute acceptance of service of the summons and complaint on behalf of a represented party.

(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. 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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