

SUMMARY OF CHANGES TO SOUTHERN DISTRICT OF OHIO LOCAL BANKRUPTCY RULES
AND
ELECTRONIC FILING PROCEDURES
EFFECTIVE DECEMBER 1, 2009

**This summary is an unofficial summary prepared as a courtesy to the bar.
In the event of any inconsistencies between this summary and the local rules, the local rules shall control.**

- GENERAL Deleted most references to LBR 9013-3 throughout the LBRs as unnecessary. *Note: It should be understood that all filings must be served on the appropriate parties and include a certificate of service.*
- GENERAL Incorporated changes to Rule 9006 effective December 2009 that all time periods are to be multiples of 7 days, unless the time period is 30 days.
- GENERAL Deleted all references to clerk default orders because no longer being used.
- 1002-1 PETITION - GENERAL.
Eliminated designation requirement because that statistic is no longer used by clerk's office.
- 1004-1 PETITION - PARTNERSHIP.
Moved to LBR 1074-1 (Corporations).
- 1007-1 LISTS, SCHEDULES, AND STATEMENTS.
Moved LBR 1007-1(b)(Amendment to List of Creditors) to LBR 1009-1(Amendments to Lists and Schedules).
- 1009-1 AMENDMENTS TO LISTS AND SCHEDULES.
New (a)(2) added to require that creditor added by amendment must be served with plan and proof of claim form.
In (c), deleted deadline for filing objection to amended exemption because Rule 4003 controls.
- 1015-2 RELATED CASES.
Cases filed by ex-spouses, LLCs and involuntary cases added as prior related cases.
Deleted language regarding sanctions as unnecessary. *Note: It should be understood that the court always has the power to sanction.*
- 1071-1 DIVISIONS BANKRUPTCY COURT.
Rule simplified to clarify that petition must be filed in proper location; may still request change in location.
- 1074-1 CORPORATIONS.
The authorization for filing is now required to be filed with petition.
Incorporated language from LBR 1004-1(Partnerships).

- Added limited liability corporations.
- 2002-1 NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES.
- Rewritten for clarity.
- 2002-2 NOTICE TO THE UNITED STATES OR FEDERAL AGENCY.
- UST website referenced.
- 2003-1 MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS.
- Added reference to chapter 11 trustee.
- Separated rescheduled and adjourned 341 meeting procedures; clarified that party seeking rescheduling or adjournment is responsible for noticing same.
- Added language that requests for transcripts of 341 meetings should be directed to UST.
- 2010-1 TRUSTEES - BONDS/SURETY.
- Deleted as unnecessary.
- 2014-1 EMPLOYMENT OF PROFESSIONALS.
- In (e), added limited notice on trustee's application to employ himself/herself/law firm as attorney for trustee.
- 2016-1 COMPENSATION OF PROFESSIONALS.
- New Form 2016-1(b) combines application and disclosure.
- In chapter 13 cases, the no-look fee increased to \$3,500 and expected duties listed. *Note: The quid pro quo for a no-look fee is that the attorney must provide all the basic services in a routine case.*
- In (b)(1) and (b)(2)(B), changed deadline for filing itemized fee application to 60 days after confirmation.
- In (c), subsequent fee application must be filed within 6 months from completion of work. *Note: the filing of a fee application after completion of the work eliminates piecemeal applications; the prompt filing of a fee application eliminates surprise and allows for a meaningful review of the work done.*
- Also, subsequent fee application must include hourly rate and identification of person performing legal service.
- In (d), added language to address fee application in a dismissed case.
- 2083-1 CHAPTER 13 - GENERAL.
- Moved language regarding hardship discharge to LBR 4007-1 (Dischargeability Complaints).
- 2090-1 ATTORNEYS - ADMISSION TO PRACTICE.

In (a), clarified what constitutes admission to this court.

In (b), added required contents of pro hac vice motion.

New (d) added regarding compliance with LBRs.

2090-2 ATTORNEYS - DISCIPLINE, SUSPENSION, AND DISBARMENT

This rule has been substantially rewritten.

2091-1 ATTORNEYS - WITHDRAWALS.

Separated substitution and withdrawal.

Specified when no signature of withdrawing attorney possible/necessary.

3001-1 CLAIMS AND EQUITY SECURITY INTERESTS - GENERAL.

In (d), added reference to new Form 3001-1, mandatory attachment to all mortgage claims 1) to be paid inside plan or 2) when the mortgage has a prepetition arrearage. *Note: the intent behind this new form is to solve the chronic problem of mortgage arrearage claims lacking sufficient detail. The new form is consistent with NACTT's "Best Practices."*

In (d)(2), clarified that post-lift stay disbursements shall be effected by court order. *Note: anticipated that these will be agreed orders.*

(e) deleted; no longer necessary for claim transferee to file notice of claim transfer because clerk's notice of claim transfer is sufficient.

3007-1 CLAIMS - OBJECTIONS.

In (a), deleted reference to IRS Special Procedures Section because it no longer exists.

In (a), deleted requirement to serve claim objection on attorney who has filed another filing on behalf of the claimant. *Note: this is because attorney will receive notice of claim objection via ECF.*

In (b), deleted requirement to use standing trustee claim number; use only clerk claim number.

In (b), deleted requirement to include specific response date in 30 day notice.

In (e), added additional requirements for omnibus claim objections.

3011-1 UNCLAIMED FUNDS.

Added language regarding requests for unclaimed funds. *Note: this information is already on the court's website.*

3012-1 VALUATION OF COLLATERAL.

Specified that plan generally controls (not schedules) because plan is served on creditors.

3015-1 CHAPTER 13 - PLAN.

In (a), in a converted case, clerk to serve timely filed plan, not trustee.

In (c)(2), added requirement that all vehicle payments, whether lease or loan, are to be paid inside the plan. *Note: the intent is to increase the percentage of completed plans.*

In (c)(3), acknowledged that all other personal property leases will generally be paid outside the plan.

Duty to provide copy of lease moved to LBR 4002-1 (Debtor - Duties).

In (d), added reference to new Form 3015-1(d)(4), mandatory notice of change in mortgage payment amount. *Note: intent behind new form is to solve chronic problems created by ARMs, escrow changes, etc.*

In (e), trustee given discretion to allow for self-pay cases.

Clarified that no motion for payroll deduction is necessary.

3015-2 CHAPTER 13 - AMENDMENTS TO PLAN.

In (a) and (b), added UST as party to be served.

Deleted (b)(6), because appraisals are now filed in all cases.

In (e), clarified that an amended Schedule I and J are not necessary when a motion to suspend is filed.

3015-3 CHAPTER 13 - CONFIRMATION.

In (e)(1), deleted language regarding timing of first payment because Code now controls.

In (e)(3), added that if property is to be surrendered, an auditor's appraisal is acceptable.

Also, appraisal must be no older than 12 months.

Deleted (e)(4) because oral denials of confirmation no longer present a problem.

Deleted (e)(6) regarding proof of insurance because Section 1326(a)(4) controls.

3022-1 FINAL REPORT/DECREE (Chapter 11).

In (d), deleted reference to statistical form because no longer used by clerk.

Deleted (e) and (f) as unnecessary.

3070-1 CHAPTER 13 - PAYMENTS.

Incorporated General Order regarding pre-confirmation lease and adequate protection payments.

Added that trustee may take statutory percentage from same.

4001-1 AUTOMATIC STAY - RELIEF FROM.

In (a)(1), added requirement that motion to lift stay shall include month and year of arrearage.

In (a)(2), Form 4001-1(a) now required for all motions to lift stay, regardless of chapter.

In (a)(2), must attach copy of recorded deed to motion to lift stay.

In (a)(8), acknowledged the different practices in cities as to when hearings are set on motions to lift the stay in reorganization cases.

New (b) sets forth procedure regarding motions to continue/impose the automatic stay. *Note: the intent is to eliminate the hearing and the additional motion for expedited hearing. If the motion is promptly filed, there is no need for an expedited hearing as the court should have sufficient time to set a hearing within the 30 day period. It also insures that the creditors are given a reasonable period of time to file an objection. It is anticipated that most chambers will set a tentative hearing and vacate the hearing if no objections are filed and the motion is otherwise sufficient; this would satisfy the procedural requirement of a hearing.*

In (c), incorporated General Order regarding rent.

4001-2 CASH COLLATERAL.

In (b), combined Rule 4001 and LBR disclosure requirements.

Deleted (d) as unnecessary.

4002-1 DEBTOR - DUTIES.

Subsections rearranged for clarity.

Expanded LBR to apply to all chapters, however, business chapter 11 debtor may make alternative arrangements with UST.

In (a), combined Code and LBR requirements regarding items to be brought to 341 meeting.

In (a)(3), most recent pay stub required.

In (a)(7), clarified that real estate documents are required for all conveyances, whether consideration given or not (e.g., gift).

In (a)(9), clarified that recorded copy of mortgage/lien is required.

In (a)(11), clarified that amended returns, if any, are required.

In (a)(11), clarified that tax returns of any business entity wholly owned by debtor are required.

In (b), incorporated General Order on payment advices; added UST as recipient.

In (b)(2), created new procedure regarding payment advices. Debtor no longer has to file certification that payment advices were presented to trustee (such certification remains optional); rather, burden on trustee/UST to file motion to dismiss if payment advices are not presented. *Note: no more clerk notices of deficiency either.*

In (d), added reference to Debtor's Certification Regarding Issuance of Discharge Order which is prerequisite to obtaining discharge order in a chapter 13 case.

In (e), expanded LBR to apply in converted cases.

4003-1 EXEMPTIONS.

- Deleted (a) as stating the obvious.
- 4003-2 LIEN AVOIDANCE.
- Reference to Rule 9014 and Rule 2004 added to recognize special service requirements, e.g., FDIC entities.
- 4007-1 DISCHARGEABILITY COMPLAINTS.
- Incorporated language from LBR 2083-1 regarding hardship discharge; reference to section 523(c) changed to 523(a)(6) to reflect change in Rule 4007(d).
- 4070-1 INSURANCE.
- Deleted because section 1326(a)(4) controls.
- 5003-1 CLERK - GENERAL AUTHORITY.
- Courtesy government addresses deleted because too difficult to keep current.
- 5077-1 TRANSCRIPTS.
- Added language referring to redaction procedure on website.
- 6004-1 SALE OF ESTATE PROPERTY.
- In (b), added requirement that value of property being sold be included in notice/motion;
- In (c), added language that in chapter 12 and 13 cases, sales of unencumbered property for less than \$1,000 do not need require application. *Note: this is a garage sale exception.*
- In (d)(1), name of buyer to be disclosed.
- In (d)(2), for sales of real property, HUD-1 to be delivered to chapter 13 trustee, debtor and debtor's attorney one day before closing.
- Deleted (e); all sales of real property to be done by motion filed with court and not by application to trustee.
- 6008-1 REDEMPTION.
- Deleted (a) as stating the obvious.
- Added new requirement to explain valuation of motor vehicle in motion to redeem.
- 7001-1 ADVERSARY PROCEEDINGS.
- Separate adversary proceedings now mandatory.
- 7003-1 COVER SHEET.
- Amended rule to reflect that cover sheet is required only when complaint is a paper/non-electronic filing.
- 7026-1 DISCOVERY - GENERAL.

Added reference to meeting by telephone to reflect the practical situation.

8004-1 SERVICE OF NOTICE OF APPEAL

Deleted as unnecessary.

8007-1 COMPLETION OF RECORD - APPEAL.

Deleted as unnecessary and/or obsolete.

9001-1 DEFINITIONS.

Added definition of Debtor to include pro se debtor to emphasize that pro se debtors are subject to the local rules.

Added definition of Service to allow deletion of repeated but inconsistent references to LBR 9013-3 throughout the rules.

9011-3 SANCTIONS.

New sanction: CM/ECF training

9013-1 MOTION PRACTICE.

In (a), deleted requirement to include specific response date in 21 day notice.

A list of motions not requiring the 20 day notice will be posted on the website:

- debtor's motion to dismiss chapter 13 case.
- trustee's application to appoint himself/herself as attorney for trustee
- motion for pro hac vice
- debtor's motion to extend time to file schedules
- motion for expedited hearing
- motion to extend/shorten response time
- motion to reopen case under §350 (not motion to vacate/not 60(b) motion)
- motion to continue hearing
- motion for TRO
- application to limit notice to parties
- motion for 2004 examination

Moved (g) on Trustee records to LBR 9070-1 (Evidence).

9013-3 CERTIFICATE OF SERVICE.

Moved language from (e) to new (f) to clarify when limited service is appropriate.

9019-1 SETTLEMENTS AND AGREED ORDERS.

Settlements are to be reported to the court by telephone or email depending on judicial preference; settlements are to be reported to the chapter 13 trustees by email.

9021-1 JUDGMENTS AND ORDERS - ENTRY OF.

Deleted clerk default order procedure. *Note: the cdo procedure was generally misunderstood and misused by the bar.*

- 9037-1 PERSONAL IDENTIFIERS.
- Added new local rule regarding redaction of personal identifiers; emphasize responsibility for redaction is with the filer not the court.
- 9070-1 EXHIBITS.
- (a) deleted as obsolete.
- Incorporated LBR 9013-1(g)(Trustee Records).
- 9072-1 ORDERS - PROPOSED
- In (d), new rule on proposed service list on submitted orders: "Default List," "Default List Plus Additional Parties," "All Filing Parties," and "All Creditors and Parties in Interest."
- 9073-1 HEARINGS (Includes Expedited Hearings).
- Deleted service requirement on United States Attorney.

CBB 9/16/09 last update