United States Bankruptcy Court
For the District of Idaho
Filed January 5, 2006
By Cameron S. Burke, Clerk

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF IDAHO

IN RE	)	
	)	
ADOPTION OF THE REVISED BANKRUPTCY COURT LOCAL RULES FOR THE DISTRICT OF IDAHO	)	**GENERAL ORDER NO. 202**
	)	
Supersedes General Order 189	)	

After giving appropriate public notice and an opportunity for comment on the revised Bankruptcy Court Local Rules for the District of Idaho, and said comment period having expired;

IT IS HEREBY ORDERED that the attached Revised Bankruptcy Local Rules for the District of Idaho be approved and adopted, effective January 1, 2006.

DATED: January 5, 2006.

Terry L. Myers
Chief U.S. Bankruptcy Judge

Jim D. Pappas
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF IDAHO

U.S. FEDERAL BUILDING & COURTHOUSE
550 W FORT ST MSC 042
BOISE ID 83724

Cameron S Burke
Court Executive/Clerk

ANNOUNCEMENT TO ATTORNEYS AND THE PUBLIC

LOCAL RULES OF BANKRUPTCY PRACTICE BEFORE THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF IDAHO

Revised and adopted January 1, 2006

The local rules are available for public viewing at each Federal Courthouse in Idaho (Boise, Pocatello, Coeur d'Alene and Moscow).

Local rules, among other documents, are available on the court's Internet web site at http://www.id.uscourts.gov. If you do not have access to the Internet, local rules can be copied on to electronic media (cd, diskette) by bringing it to the Clerk's office in Boise at the U.S. Courthouse and Federal Building, 550 W Fort St, Room 400. You can also send your request, with a return addressed and stamped mailer, to:

Clerk, U.S. Bankruptcy Court
550 W Fort St MSC 042
Boise, ID 83724

We welcome your comments and suggestions which will be forwarded to the Rules Committee.

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

LOCAL RULES

LOCAL BANKRUPTCY RULES OF PROCEDURE
FOR THE
UNITED STATES BANKRUPTCY COURT
IN THE DISTRICT OF IDAHO

Effective Date: January 1, 2006

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LOCAL BANKRUPTCY RULE 1001.1
SCOPE, APPLICABILITY AND PROMULGATION OF LOCAL RULES

(a) **Scope**.

These local bankruptcy rules govern practice and procedure in the United States Bankruptcy Court for the District of Idaho. These rules shall be cited as "LBR ____." The term "judge," as used in these rules, includes a U.S. Bankruptcy Judge, a U.S. District Judge, or any other judicial officer to which a bankruptcy case or proceeding has been referred.

(b) **Applicability**.

Unless otherwise indicated, each of these local rules applies to cases commenced under chapters 7, 9, 11, 12, and 13 of the Bankruptcy Code and in all adversary proceedings. In the event of an appeal to the district court, or a withdrawal of reference under 28 U.S.C. § 157, the District Court may in its discretion direct that the District of Idaho Local Civil Rules (D.Id.L.Civ.R.) shall replace or supplement the provisions of the local bankruptcy rules in such matters.

(c) **Promulgation**.

Promulgation of local rules shall be made by the U.S. District Court in accord with Fed. R. Bankr. P. 9029, and shall be made with the advice of the U.S. Bankruptcy Court Advisory Committee on local rules unless the U.S. District Court determines cause exists for emergency promulgation.

Related Authority:
28 U.S.C. §§ 151, 154, 157
Fed. R. Bankr. P. 9029

Advisory Committee Notes:

These local rules are subject to clarification and interpretation by the courts of this district.

These local rules were promulgated to address certain areas where the Bankruptcy Code and Federal Rules of Bankruptcy Procedure are vague or incomplete, or where experience dictated a need for further clarification or modification of practice in this district. The Local Bankruptcy Rules are based upon prior local rules, the local rules of other districts, and the efforts of the court and practitioners to improve the quality and efficiency of bankruptcy practice.

The "Advisory Committee Notes" following the rules are designated to provide explanation regarding the need for, as well as guidance regarding the anticipated operation of, the local rules. Constructions of the rules as contained in such Advisory Committee Notes, however, are not controlling, and in some instances may not reflect unanimity of belief by the members of the Advisory Committee.

Local rules, forms, guidelines, fees, and other information can be viewed at: www.id.uscourts.gov

LOCAL BANKRUPTCY RULE 1001.2
ESTABLISHMENT OF BUSINESS HOURS

The standard business hours of the office of the clerk of court will be from 8:00 a.m. to 5:00 p.m. local time, all days except Saturday, Sunday, and legal holidays.

Related Authority:
None

Advisory Committee Notes:

A drop-box for filings is available at all courthouse locations, twenty-four hours a day, every day of the year. Each drop-box contains depository instructions.

LOCAL BANKRUPTCY RULE 1002.1
PETITIONS

(a) **Number of Copies**.

In addition to the original, the following number of copies shall accompany each petition, schedules, and statement of affairs:

Chapter 7	2 copies
Chapter 9	2 copies
Chapter 11	4 copies
Chapter 11 (Railroad Reorganization)	6 copies
Chapter 12	2 copies
Chapter 13	2 copies

(b) **Number of Plans**.

(1) In reorganization cases, in addition to the original (or any amended) plan, the following numbers of copies are required for filing with the clerk.

Chapter 9	1 copy
Chapter 12	1 copy
Chapter 13	1 copy

(2) If the chapter 13 plan is not filed with the petition, the debtor shall be responsible for service, and providing proof of service thereof, as required by LBR 2002.3; however, the original and the required number of copies set forth in subdivision (b)(1) of this rule shall still be filed.

(c) **Captions of Petitions and Identity of Debtors**.

In regard to all cases filed under §§ 301 and 302 of the Code, the caption of such cases shall be in the following style:

(1) If the debtor is an individual, not filing a joint petition with his/her spouse: "John A. Doe" or “Doe, John A.”

(2) If the debtor is an individual filing a joint petition with his/her spouse: "John A. Doe and Mary A. Doe" or “Doe, John A. and Doe, Mary A.”

(3) If the debtor is a general [or limited] partnership: "Name of entity, a general [limited] partnership."

(4) If the debtor is a corporation: "Name of entity, a corporation" (unless the word "Inc.," "Incorporated" or "Corporation" is a part of the name).

(5) If the debtor is a limited liability company or similar entity: "Name of entity, a Limited Liability Company," or "L.L.C." or similar designations.

(d) **Petition Filed by a Corporation, Partnership, or Other Entity**

Although a corporation, a general partnership, limited partnership, limited liability company or other entity may file a voluntary petition, it must be executed by an authorized corporate officer, general partner, or designated manager. Further, an attorney shall represent these entities, and such attorney shall also sign the petition.

Related Authority:
11 U.S.C. §§ 101(9), 109, 301, 302
Fed. R. Bankr. P. 1002, 1004, 1005, 1006(a), 1007 and 9011(f)

Advisory Committee Notes:

This rule attempts to address the problems caused by petitions either improperly or confusingly captioned, as well as those caused by petitions improperly purporting to be "joint" petitions outside the limited authority of § 302 of the Code -- *i.e.*, an individual and a corporation.

The rule in (d) addresses the problem of so-called "*pro se*" corporate or partnership cases. Also see LBR 9010.1(e)(3) regarding appearances for such entities.

LOCAL BANKRUPTCY RULE 1006.1
FILING FEES

Filing fees required for the initiation of a voluntary case shall be accepted by the clerk in the form of cash, cashier's check, money order, or an attorney's check. Two party checks or personal checks of the debtor(s) will not be accepted.

Related Authority:
11 U.S.C. §§ 301, 302
28 U.S.C. § 1930
Fed. R. Bankr. P. 1006

Advisory Committee Notes:

This rule addresses an obvious problem encountered by the clerk when debtors present petitions for filing. A fee schedule may be obtained at the court's website www.id.uscourts.gov or from the clerk's office.

LOCAL BANKRUPTCY RULE 1007.1
MASTER MAILING LIST (MML)

(a) Filing of Master Mailing List (MML)

At the time of filing a petition initiating a proceeding under the Bankruptcy Code, a Master Mailing List (MML) shall accompany the petition, which list shall include the name, address, and zip code of every scheduled creditor and other parties in interest. The MML shall not include the names or addresses of the debtor, joint debtor, or counsel for the debtor(s). Also, the MML shall not include the account numbers between the creditor(s) and debtor(s).

(b) Form of Master Mailing List

The MML shall be prepared in the form as required by the clerk of the court.

(c) Accuracy of Master Mailing List

The clerk and/or the Bankruptcy Noticing Center (BNC) need not check to ensure that the MML accurately reflects the names and addresses of creditors, equity security holders, and/or parties in interest listed on the debtor's schedules. For purposes of notice by the clerk; the BNC or by any party in interest, an error or omission on the MML shall be deemed an error or omission on the debtor's schedules, unless such creditor or party in interest should have been added as a result of a filed proof of claim or a written request to the court. The clerk's office or the Bankruptcy Noticing Center will forward returned mail to the debtor's attorney (or the debtor if pro se). It will be the responsibility of the attorney (or debtor if pro se) to provide the court with a current address of those creditors whose mail was undeliverable. It will also be the responsibility of the debtor's attorney (or debtor if pro se), to send a §341(a) notice to those creditors whose mail was not delivered and to provide proof to the court that notice was sent.

(d) Amendments to Master Mailing List

Any additions to the MML subsequent to its initial filing shall include only those names added in the MML format required by the clerk and shall be accompanied by the amendment fee. Any deletions from the MML are to be set forth in a letter to the clerk of court. A party may not delete names from the MML by submitting a new MML with the names deleted.

Related Authority:
11 U.S.C. § 521
Fed. R. Bankr. P. 1007, 2002(g)

Advisory Committee Notes:

This rule has been modified consistent with internal changes in the clerk's office. The clerk has detailed information on how to prepare an MML so that the MML can be read by the court's equipment. This information will be provided by the clerk upon request, or can be viewed at www.id.uscourts.gov. See LBR 1009.1 and Miscellaneous Fee Schedule regarding assessment of an amendment fee when creditors are added to schedules or lists.

LOCAL BANKRUPTCY RULE 1007.2
EXTENSION OF TIME

(a) **Extension of Time**

An extension of time under Fed. R. Bankr. P. 1007(c) for filing schedules, statement of affairs, or other required documents will not be granted beyond the date set for the meeting of creditors under § 341(a) unless a judge orders otherwise for cause shown. Any motion for extension of time filed under this rule shall (a) state the exact length of extension requested and (b) identify the date currently set for the § 341(a) meeting or, alternatively, affirmatively allege that no such date has yet been set. An extension beyond the date set for the § 341(a) meeting will not be granted unless the debtor has also arranged with the U. S. Trustee for a continuance of the § 341(a) meeting, and confirmation hearing if applicable, pursuant to LBR 2003.1 and provided appropriate notice thereof.

Related Authority:
11 U.S.C. § 521
Fed. R. Bankr. P. 1007

Advisory Committee Notes:

It is the responsibility of the U.S. Trustee to make a request for dismissal when the filing requirements are not met. *See* § 707(a)(3), § 1112(e), § 1208 and § 1307(c)(9) and (10).

LOCAL BANKRUPTCY RULE 1007. 3
TAX RETURNS

This rule shall apply in chapter 12 and chapter 13 cases.

Except where the court orders otherwise for good cause shown, debtors, prior to the initial hearing on confirmation of a plan, must:

(1) File all required tax returns with the proper taxing authority;

(2) Provide to the trustee a photocopy of any tax returns not filed prior to the commencement of case; and

(3) Provide to the trustee a photocopy of any tax return for the tax years subject to the *Income Tax Turnover Order*. Failure to do so may be grounds for dismissal.

Related Authority:
11 U.S.C. §§ 1322 and 1325

Advisory Committee Notes:

While in chapter 13 cases filed between January 1 and April 15, a return may not be required or due under the Internal Revenue Code, such a return is necessary for the trustee to evaluate feasibility and plan compliance with §§ 1322 and 1325 to make a recommendation on confirmation.

Although chapter 11 cases are not specifically addressed in this rule, the proper and timely filing of required tax returns may still be:

(i) a basis for dismissal of the petition, or;

(ii) required, in whole or in part, for the approval of the Disclosure Statement, and

(iii) an element of confirmation of a plan.

LOCAL BANKRUPTCY RULE 1009.1
AMENDMENTS OF PETITIONS, LISTS, SCHEDULES AND STATEMENT OF FINANCIAL AFFAIRS

An original, and the following number of copies of the amendment, must be filed with the clerk:

Chapter 7	original and 2 copies
Chapter 11	original and 1 copy
Chapter 12	original and 1 copy
Chapter 13	original and 1 copy

The amendment shall bear, on its face, the debtor's name and case number, and the notation "amendment." The amendment shall identify the schedule or document being amended and include an explanation of the change(s) or addition(s) in the amendment and shall be limited to the changed or additional information being offered and shall not include unaffected portions of the schedule or document being amended.

Where the amendment adds additional creditors, the debtor shall:

(1) Send to the creditor(s) so added a copy of the notice of the § 341(a) meeting of creditors, and plan if applicable;

(2) File a certificate of service with the clerk;

(3) Request the clerk to add the creditor(s) to the Master Mailing List, and

(4) Submit the applicable filing fee.

The clerk need not verify or confirm that the additional creditor(s) receive notice.

Related Authority:
Fed. R. Bankr. P. 1007, 1009, 2002(g)

Advisory Committee Notes:

This rule continues current practice in those situations where the debtor or debtor's counsel causes notice of the amendment to be served.

LOCAL BANKRUPTCY RULE 1019.1
CONVERSIONS

(a) **Schedules of unpaid debts.**

Within fifteen (15) days following the entry of the order of conversion, a schedule of unpaid debts incurred after commencement of the superseded chapter 11, 12 or 13 case shall be filed. A Master Mailing List setting forth the name and address of each such creditor shall be filed with the court by the following parties, and served on the U.S. Trustee and successor trustee, if applicable.

(1) The debtor in possession, or trustee if one served, in a chapter 11 case;

(2) A chapter 13 debtor, or

(3) A chapter 12 debtor in possession or the chapter 12 trustee if the debtor is not in possession.

(b) **List of 20 largest unsecured creditors.**

If converting to a chapter 11 proceeding, a separate list of the 20 largest unsecured creditors shall be filed with the court and served on the U.S. Trustee.

(c) **Filing of Plan.**

If converting to a chapter 13, a plan is to be filed with the notice or motion to convert or within fifteen (15) days thereafter.

(d) **Final Report and Account.**

Upon conversion, the final report and account required to be filed by the debtor or trustee shall include the following:

(1) A schedule of property acquired by the debtor after the commencement of a chapter 11 case.

(2) A balance sheet as of the date of conversion and a profit and loss statement for the period of the pendency of a case under chapter 11, unless such balance sheet and profit and loss statements for the period of the pendency of a case under chapter 11 have been previously filed in accordance with court order.

(3) A statement of the money or property paid or transferred, directly or indirectly, during the pendency of a chapter 11 case, to the debtor, if the debtor is an individual; or to each partner, if the debtor is a partnership; or to each officer, stockholder, and director, if the debtor is a corporation.

(4) A listing of all matters pending in the case and any adversary proceedings or other litigation pending in which the debtor, debtor-in-possession or trustee is a party.

(5) Except to the extent otherwise clearly disclosed by the foregoing, amended

schedules reflecting the status of assets and liabilities as of the date of conversion.

(e) **Bank Account.**

The debtor, or trustee if one served in the original chapter 11 case, shall furnish to the successor trustee originals or photocopies of all canceled checks and bank statements pertaining to the bank account(s) maintained in the chapter 11 case.

(f) **Requests for Allowance of Administrative Expenses.**

All applications for allowance of administrative expenses in the original chapter 11 case, other than those of a governmental unit, shall be filed within ninety (90) days of entry of the order of conversion, or at another time may be established by order.

Related Authority:
11 U.S.C. § 1112
Fed. R. Bankr. P. 1019

Advisory Committee Notes:

Fed. R. Bankr. P. 1019 provides for the filing of lists, inventories, schedules, statements, and other reports upon conversion of any chapter 11, 12 or 13 case to a chapter 7 and establishes numerous requirements in addition to those under this rule. Additionally, if the schedule of unpaid debt is not filed within the required fifteen (15) days, the clerk will assess an amendment fee.

A suggested form of final report and account in converted chapter 11 cases is available at the clerk's office. The form can also be viewed at www.id.uscourts.gov.

LOCAL BANKRUPTCY RULE 2002.1
SALE OF PROPERTY OF THE ESTATE

(a) **Contested Matter**.

A sale pursuant to § 363(b), including a sale free and clear of any interest of an entity other than the estate, is initiated by notice and is subject to LBR 2002.2.

(b) **Notice of Sale**.

(1) The notice of sale shall include, without limitation, the following information:

(A) A description of the property to be sold;

(B) The time and place of sale;

(C) The terms of sale;

(D) Whether the property is to be sold free and clear of liens;

(E) The estimated fair market value of the property and a brief statement of the basis for the estimate;

(F) If known, the amounts of each lien or encumbrance claimed against the property and the identity of each lienholder;

(G) The proposed disposition of the proceeds of sale shall include any proposed compensation to brokers, auctioneers, or other professionals to be paid from the proceeds of sale;

(H) The subdivision of § 363(f) which authorizes the sale, and

(I) The date by which objections to the sale must be filed, pursuant to Fed. R. Bankr. P. 6004(b), and the name and address of any entity to be served with the objection.

(2) All interests in the property sold free and clear shall attach to the proceeds of the sale, except as otherwise provided in the notice.

(c) **Order**.

A party moving for an order approving or confirming an unopposed sale shall support the motion with an affidavit showing the necessity for the order.

Related Authority:
11 U.S.C. § 363(f)
Fed. R. Bankr. P. 2002(a),
2002(c)(1), 6004, 7001

Advisory Committee Notes:

Certain controls on the sale of property of the estate, including a requirement of specificity in the notice, were deemed advisable by the committee especially in regard to sales free and clear of claims, liens and interests.

The notice, under subdivision (b)(1)(G), should note that any such compensation is subject to review of the court.

An action to determine the validity, priority, or extent of any interest of an entity other than the bankruptcy estate in property must be brought separately as an adversary proceeding. *See* Fed. R. Bankr. P. 7001(2).

LOCAL BANKRUPTCY RULE 2002.2
NOTICE AND HEARING

(a) **Applicability**.

All contested matters under Fed. R. Bankr. P. 9014, all motions under Fed. R. Bankr. P. 9013, and all other matters requiring or with provision for a hearing under the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, shall be subject to the following requirements and conditions, in addition to other and further requirements as may be imposed by rule or applicable law.

(b) **Notice.**

(1) By whom given. Except for notices specified in Fed. R. Bankr. P. 2002(a)(1), (a)(7), (b)(2) chapter 13 only, (e) and (f), all notices shall be given by the party requesting an order or other relief.

(2) To whom given.

(A) "Notice," as used in this rule shall mean notice by mail or electronic means to all creditors, equity security holders, trustees and indenture trustees, the debtor, the chairman of any committee appointed in the case, U.S. Trustee and any other parties in interest. A different method or less inclusive notice may be given only if allowed by the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, or if authorized by a judge.

(B) The addresses of notices shall be in accordance with Fed. R. Bankr. P. 2002(g).

(i) A Master Mailing List of names and addresses, as filed with the court, and updated in accordance with said Rule 2002(g), may be obtained from the clerk upon written request and payment of the attendant fee or downloaded from the court's website at www.id.uscourts.gov.

(ii) Required notice to all creditors is presumed to be appropriate if mailed to all entries on the Master Mailing List, which has been provided by the clerk.

(iii) Notices sent by the clerk, Bankruptcy Noticing Center (BNC), or some other person or entity as the court may direct, pursuant to 11 U.S.C. §§ 341(a), 342(a) and (b), and Fed. R. Bankr. P. 2002, that are determined undeliverable will be forwarded to the debtor's attorney (or debtor if *pro se*). Any notice, other than a § 341(a) meeting of creditors, or a copy of the final order of discharge, which is returned to the court, shall be destroyed without notation or record.

(3) Proof of Service. After giving notice, the moving party shall file within five (5) days of the notice, an affidavit of mailing with a list of the persons and their addresses to whom the notice was sent. If notice to all creditors is required, the affidavit of service must certify mailing (or other services) on all parties included on the Master Mailing List described in subdivision (b)(2)(B) of this rule.

(c) **Objection.**

If the notice provides for the filing of an objection, a party objecting to an act or the entry of an order shall file with the clerk and serve on the moving party, a written objection within the time set forth in the notice. The objection shall state, with specificity, the grounds therefore.

(d) **When hearing is not required.**

If authorized by the Bankruptcy Code or Fed. R. Bankr. P., or if allowed by the court, an actual hearing may not be required. In all such instances, the moving party shall, in the notice, so advise all parties receiving notice that an order may be entered without hearing. The moving party shall provide not less than fifteen (15) days within which any party in interest may object, unless a longer period is required by order of a judge or under applicable Federal Rule of Bankruptcy Procedure, or such period is shortened by order of a judge.

(e) **Hearing.**

(1) By moving party. Counsel for the party who desires or is required to set a matter for hearing shall be responsible for contacting the calendar clerk and obtaining a date for such hearing. Unless the calendar clerk provides a hearing date after such contact, the matter will not be scheduled for hearing and will not be heard. Counsel obtaining a hearing date shall be responsible for providing notice to all parties as provided by this rule.

(2) By objecting party. If a party objects to an act or the entry of an order and the matter is not previously set for hearing, counsel for the objecting party shall be responsible for contacting the calendar clerk and obtaining a hearing date, as provided in subdivision (e)(1) of this rule and notifying the moving party and all other parties as required by this rule.

(3) Any party requesting a hearing date from the calendar clerk (or in open court) shall file the notice of hearing and related pleadings at least five (5) days prior to the scheduled hearing date. Failure to do so may result in the hearing being removed from the calendar.

(f) **Vacation or continuance of hearing.**

A hearing may be vacated or continued for good cause by approval of the court:

(1) On a judge's own motion;

(2) Upon submission, prior to hearing, of an agreed order resolving the matter endorsed by the parties or their counsel of record;

(3) Upon agreement of the parties, set forth in writing and filed no later than the day before the scheduled hearing, and for good cause shown, or, if settled later than the day before the hearing, upon an agreement read into the record at the time of the hearing by counsel for one of the parties; or

(4) On the request of a party after notice to all opposing parties filed and served at least three (3) days prior to the scheduled hearing, accompanied by an affidavit stating the grounds for such request, unless a judge for cause shown waives the requirements of this rule.

Related Authority:
11 U.S.C. § 102(1)
Fed. R. Bankr. P. 2002, 9006, 9007, 9008, 9036
District Court of Idaho General Order No. 35

Advisory Committee Notes:

Note that subdivision (b)(1) requires a party to serve notice in certain circumstances where previously the clerk provided notice.

LBR 2002.2(b)(2) applies in chapter 13 when the plan is filed with the petition. Debtor mails the notices when the plan is filed at a later time. (*See* LBR 2002.3(a)(2))

Subdivision (b)(2)(B)(ii) has been changed to eliminate the process of "certification" of the MML.

Subdivision (e) reflects current practice and emphasizes the necessity of setting matters through the calendar clerk. Subdivision (e)(3) requires the filing of supporting pleadings. Upon request of a party, a hearing may be heard by video conference. Parties must request and obtain approval for a video conference hearing by calling the calendaring department at (208) 334-9343.

Subdivision (f) is designed to cure problems presently encountered by the court where counsel vacates a hearing without advising the court and/or opposing counsel.

LOCAL BANKRUPTCY RULE 2002.3
MAILING OF PLANS

(a) **Chapter 13 Cases**.

(1) The Bankruptcy Noticing Center (BNC), or some other person or entity as the court may direct, will mail plans filed with the petition in chapter 13 cases with the § 341(a) notice to creditors. An original plan plus one (1) copy must be submitted with text only on one side so that this information can be scanned electronically. In such cases, and provided all other schedules and statements are also filed with the petition, the accelerated confirmation process of LBR 2002.5 shall apply.

(2) In all cases where the plan and required copies are not filed with the petition, the debtor shall be responsible for mailing copies of the chapter 13 plan and notice of hearing on confirmation to all creditors and parties in interest. Such notice must comply with Fed. R. Bankr. P. 2002 and 3015. In such cases, the notice of the § 341(a) meeting issued by the BNC shall not advise creditors of the confirmation hearing date, and such cases will not be subject to the accelerated confirmation procedures of LBR 2002.5. The debtor shall immediately thereafter file proof of service by mailing with the clerk of the court.

(b) **Other Cases**.

In all chapter 11 and 12 cases, the debtor or plan proponent shall give notice of the hearing on confirmation of the plan. The debtor or plan proponent shall mail copies of the plan, with such notice, to all creditors and parties in interest prior to the hearing date set for confirmation of the plan. In chapter 11 cases, the debtor or plan proponent shall also mail copies of the order approving disclosure statement and notice of the confirmation hearing, together with a copy of the disclosure statement, plan, ballot, and any amendments or addenda to the original plan or disclosure statement.

Related Authority:
11 U.S.C. §§ 1128, 1224, 1324
Fed. R. Bankr. P. 2002(a), 2002(b), 3015, 3017

Advisory Committee Notes:

In reference to balloting on confirmation in chapter 11 cases under subdivision (b), ballots should be prepared directing their submission to the clerk of the court for tabulation, and any ballots returned to counsel for the debtor or a plan proponent contrary to the instructions on the ballot should be immediately forwarded to the clerk with notation of date received.

LOCAL BANKRUPTCY RULE 2002.4
FILING AND CONFIRMATION OF CHAPTER 12 PLAN

(a) **Objections**.

Objections to confirmation of a chapter 12 plan shall be in writing and filed with the clerk and served on the debtor, the trustee, and on any other party in interest, not less than ten (10) days prior to any scheduled confirmation hearing. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Fed. R. Bankr. P. 9014.

(b) **Notice**.

The debtor or plan proponent shall provide notice according to LBR 2002.3(b). Unless a judge fixes a shorter period, notice of such hearing shall be given not less than twenty-five (25) days before the hearing. A copy of the plan shall accompany the notice.

(c) **Retained Power**.

Notwithstanding the entry of the order of confirmation, a judge may enter all orders necessary to administer the estate.

Related Authority:
11 U.S.C. §§ 1221, 1224, 1225
Fed. R. Bankr. P. 2002, 3015

Advisory Committee Notes:

Section 1221 and Fed. R. Bankr. P. 3015(a) provide that a chapter 12 debtor may file a plan with the petition. If a plan is not filed with the petition, it must be filed within ninety (90) days thereafter unless the court extends the time for filing the plan. After notice, as provided in this rule, a judge shall conduct and conclude a hearing within the time prescribed by § 1224 and rule on confirmation of the plan. If no objection is timely filed, Fed. R. Bankr. P. 3015(f) allows the judge to determine that the plan has been proposed in good faith and not by any means forbidden by law without receiving evidence on those issues.

LOCAL BANKRUPTCY RULE 2002.5
FILING AND CONFIRMATION OF CHAPTER 13 PLAN

(a) **Chapter 13 Plan and Schedules Filed with Petitions**

(1) **Applicability.**

When the Chapter 13 Plan and all other schedules and statements are filed with the bankruptcy petition, as identified in LBR 2002.3, an accelerated confirmation process is available provided the requirements set forth herein in subpart (a) are satisfied.

(2) **Notice to Creditors.**

The Bankruptcy Noticing Center (BNC) shall send to the debtor, debtor's attorney, the trustee, and all creditors and parties in interest, a notice that advises them of the provisions of this rule. This notice shall be sent at the same time as, and may be incorporated within, the notice of the § 341(a) meeting of creditors.

(3) **Objections to Confirmation of the Plan**.

Any objection to the confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor, and debtor's attorney prior to or on the date of the scheduled § 341(a) meeting of creditors, or within five (5) days thereafter. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Fed. R. Bankr. P. 9014.

(4) **Confirmation of Plan Without Objection.**

Where no objection to confirmation of a chapter 13 plan is filed within the time limits established by this rule, then a judge, without hearing, may enter an order confirming the plan.

(b) **Chapter 13 Plan and Schedules Not Filed With Petition.**

(1) **Objections to Confirmation of the Plan.**

When the chapter 13 plan and all other schedules and statements are not filed with the petition, as identified in LBR 2002.3, any objections to confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor and debtor’s attorney no later than five (5) days prior to the time set for the confirmation hearing. An objection to confirmation must set forth with specificity the grounds for objection and is governed by Fed. R. Bankr. P. 9014.

(2) **Notice of Hearing**

When the chapter 13 plan and all statements are not filed with the petition, as identified in LBR 2002.3, the notice of hearing of confirmation required by LBR 2002.3(a) shall state that any objection to the confirmation of the plan must be in writing and filed with the clerk, the trustee, debtor and debtor’s attorney no later than five (5) days prior to the time set for the confirmation hearing.

(3) **Confirmation of Plan Without Objection**

Where no objection to confirmation of plan is filed within the time limits established by this rule, than a judge, without hearing, may enter an order confirming the plan

(c) **Amendment of Plans**

The proposed plan may be amended, at either the § 341(a) meeting or anytime prior to the hearing scheduled under subdivision (e) of this rule to resolve an objection. Such amendment must be placed on the chapter 13 trustee's minutes or be included in an amended plan. Where a timely objection has been made, the plan will not be confirmed until the objecting party has withdrawn such objection or a hearing is held as provided in subdivision (e) of this rule. Where the amendment does not affect any other party in interest, a judge may confirm the plan as amended without notice or a hearing. Where the amendment would affect another party in interest, the plan as amended must be mailed to each affected party with a notice providing twenty (20) days to object to the amendment. If no objection is made within the time allowed, a judge may confirm the plan as amended without a hearing.

(d) **Objections not Resolved by Amendment of the Plan.**

Where an objection to a proposed chapter 13 plan cannot be resolved by an amendment to the proposed plan, or where the trustee does not recommend confirmation, the court shall hold a confirmation hearing to resolve the objection. The clerk shall schedule a tentative confirmation hearing date, in the event an actual hearing is required under this rule, and provide notice of the date on the notice of the § 341(a) meeting of creditors.

(e) **Standard Chapter 13 Plan and Order**.

When possible the debtor shall use the standard approved chapter 13 plan and order for this district. If the debtor provides additions, deletions, or other modifications, the debtor shall provide at the beginning of the plan or order a notice that the chapter 13 plan or order contains deviations, and the deviations shall be clearly identified. If the debtor is represented by an attorney, the plan or any amended plan shall be signed by the attorney at the time it is filed and shall be signed by the debtor prior to the confirmation hearing. If the debtor is not represented by an attorney, the plan shall be signed by the debtor at the time it is filed. If either the plan or any amended plan is further amended and the amendments are contained in the order confirming the plan, the proposed order confirming the plan shall be signed by the debtor, the debtor's attorney, the trustee and any other party in interest affected by the amendments.

Related Authority:
11 U.S.C. §§ 1302, 1322, 1323, 1324, 1325
Fed. R. Bankr. P. 2002, 3015

Advisory Committee Notes:

The process of confirmation as structured under this rule is designed to protect interests of objecting creditors, while allowing accelerated confirmation of plans and payment to creditors in the large

majority of chapter 13 cases where there are no objections or where objections can be readily resolved. The notice and timing requirements under the Federal Rules of Bankruptcy Procedure make the accelerated confirmation process appropriate only in those cases where the plan is filed with the petition, and the clerk is able to issue notice. In all other cases, the debtor must file the plan within fifteen (15) days of the petition. *See* Fed. R. Bankr. P. 3015(b), and provide copies of the plan and notice of confirmation hearing to all creditors and parties in interest, in compliance with Fed. R. Bankr. P. 2002 and 3015, and these local rules.

LOCAL BANKRUPTCY RULE 2003.1
SECTION 341(a) MEETING OF CREDITORS

(a) **Applications for Continuance**.

A continuance of the § 341(a) meeting of creditors must either be requested of the presiding officer at the time of the § 341 meeting or, not later than ten (10) days after the scheduled meeting, by written application to the U.S. Trustee accompanied by an affidavit identifying the circumstances necessitating the delay. A continuance will not be allowed except where extenuating circumstances render the debtor(s) unable to appear. A continuance will not be allowed for a conflict involving the debtor's attorney.

(b) **Notice and Service**.

If a continuance of the §341(a) meeting is granted by the presiding officer or U.S. Trustee, the debtor or debtor's attorney must mail notice of the continuation to the creditors at least seven (7) days prior to the date of the continued meeting. The notice must include the date, time, and location of the continued meeting, and, if the case is a chapter 13, the notice must also include the date, time and location of the continued confirmation hearing. Proof of service of the continuation notice must be filed with the clerk and must list each party served and their mailing address.

(c) **Dismissal**.

If the debtor fails to appear at the §341(a) meeting and, if either no continuance is requested within ten (10) days after the scheduled meeting, or no continuance is granted by the Presiding Officer or U.S. Trustee, the U.S. Trustee may apply for an order of dismissal provided that the file contains proof that a notice of the meeting was mailed to the debtors.

(d) **Notice To Other Courts**.

The debtor's attorney (or the debtor if *pro se*) shall provide a notice of the commencement of the bankruptcy case to all courts in which the debtor is known to be a party. Such notice shall reasonably identify to such court(s) the case or action affected by the debtor's bankruptcy.

Related Authority:
11 U.S.C. §§ 341, 343
Fed. R. Bankr. P. 2003, 2004, 4002

Advisory Committee Notes:

This reflects the responsibilities of the U.S. Trustee in conducting § 341(a) meetings. It follows General Order No. 61 effective April 1, 1990.

While not as significant a problem as in other districts, failure to appear and/or failure to advise the court of the need for a continuance are still common and require a mechanism to control abuse.

Under subdivision (c) of the rule, the U.S. Trustee may request that the case be dismissed. However,

the U.S. Trustee or panel trustee may elect to have the case remain open, for example, to administer assets or oppose entry of the debtor's discharge based on the failure to appear. *See* 11 U.S.C. §§ 704, 727.

Note also that dismissal on this ground falls within the scope of the prohibition of §109(g)(1) on filing of a subsequent petition for relief.

For purposes of planning and avoiding potential conflicts, note that the court's calendar for §341(a) meeting dates is set one year in advance. Copies of this calendar are available, without charge, from the office of U.S. Trustee or at www.id.uscourts.gov.

LOCAL BANKRUPTCY RULE 2014.1
APPROVAL OF EMPLOYMENT OF PROFESSIONAL PERSONS

(a) **Applications for Approval of Employment of Professional Persons.**

In addition to including the information required by Fed. R. Bankr. P. 2014(a), an application for approval of employment of a professional person shall be signed by the trustee, debtor-in-possession or committee, and shall state the following information:

(1) The proposed arrangement for compensation. If there is a retainer, the application shall disclose all pre-petition fees and expenses drawn down against the retainer, and any written retainer agreement shall be attached to the application; and

(2) To the best of the applicant's knowledge, all of the person's connections with the debtor, creditors, or any other party in interest, their respective attorneys and accountants, the U.S. Trustee, or any person employed in the office of the U.S. Trustee.

(b) **Service and Proof of Service.**

(1) Copies of the application for approval of employment, the verified statement, any accompanying documents, and the proposed order approving employment shall be transmitted to the office of the U.S. Trustee in Boise.

(2) In a non-chapter 11 case, service shall also be made upon the debtor(s), debtor(s)' counsel, the trustee, and trustee's counsel.

(3) In a chapter 11 case, service shall also be made upon members of any creditors' committee(s) and any attorneys appointed to represent the committee(s). In the event no committee has been appointed, service shall also be made on the 20 largest unsecured creditors. In a chapter 11 case, service shall also be made on the debtor and the attorney for the debtor if the application is made upon behalf of a party other than the debtor.

(4) Proof of such service shall be filed with the application.

(c) **Entry of an Order of Approval of Employment.**

If neither the U.S. Trustee nor any other party in interest objects to the application for approval of employment of the professional within fourteen (14) calendar days of the date of service of the application, the court may enter the order approving the employment of the professional without a hearing. If an objection to the application is timely filed, then the applicant shall schedule a hearing on the application and serve notice of the hearing on the U.S. Trustee and all other parties in interest. Proof of such service shall be filed with the notice of hearing. Any order of approval of employment entered by the court will relate back to the date of service of the application.

Related Authority:
11 U.S.C. §§ 327, 328
Fed. R. Bankr. P. 2014, 9034

Advisory Committee Notes:

Fed. R. Bankr. P. 2014 governs applications for employment of professional persons. This rule sets forth a minimum standard of notice. In many cases, a party may wish to set an actual hearing and/or provide notice to all parties in interest. The rule is not designed to prohibit such an approach.

LOCAL BANKRUPTCY RULE 2016.1
CHAPTER 13 REPRESENTATION AND COMPENSATION

(a) **Applicability**.

Attorneys representing debtors in cases under chapter 13 of the Bankruptcy Code may elect to establish terms of compensation for their services under the requirements and conditions of this rule. If they elect not to do so, the terms and conditions of employment shall be as established by appropriate written agreement, and compensation shall be subject to the requirements of the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure, including but not limited to § 330(a)(4)(B).

(b) **Presumptive fee.**

If an attorney elects to establish compensation for representation of debtors in chapter 13 cases under this rule, and upon compliance with the terms and conditions of this rule, the attorney shall be allowed a fixed fee not to exceed the amount provided in a General Order of this court for all services rendered or to be rendered throughout the duration of the chapter 13 case, and inclusive of all costs and expenses with the exception of the initial petition filing fee and amendment filing fees. This fixed fee shall be presumptively reasonable and allowable under § 330(a)(4)(B) without itemization of time or other submission. The chapter 13 plan may make provision for the payment of any portion of such fee not paid by the debtor(s) prior to the filing of the petition.

(1) Inasmuch as such fee's reasonableness is presumptive only, the court may, in its discretion or upon request of the debtor, the chapter 13 trustee, the U.S. Trustee, a creditor or party in interest, conduct a hearing to consider the reasonableness of such fee under all the facts and circumstances of the case. The court may, as a result of such hearing, reduce or modify such fee.

(c) **Required use of Model Retention Agreement.**

An attorney seeking to establish presumptive compensation under this rule shall execute and be bound by the Model Retention Agreement in the form required by the Court. Such attorney shall also obtain the signatures of the debtor(s) to the Model Retention Agreement. A copy of the fully executed Model Retention Agreement shall be attached to the statement filed by the attorney under Fed. R. Bankr. P. 2016(b).

(d) **Applications for fees in addition to presumptive amount.**

In extraordinary circumstances, an attorney receiving presumptive compensation under this rule may seek additional fees through an application for allowance of additional compensation and, if necessary, a motion to modify a confirmed plan. Such an application shall be set for a hearing upon notice to the debtor(s), the chapter 13 trustee, the U.S. Trustee, and all creditors and parties in interest. Such an application shall be accompanied by an affidavit justifying the request and including an itemization of all services rendered by the attorney, from the initiation of representation of the debtor(s) through the date of application, supporting the total amount of compensation sought. This affidavit shall be filed with the court and served on the debtor(s), the chapter 13 trustee, and the U.S. Trustee.

Related Authority:
11 U.S.C. § 329, 330, 503(b)(2)
Fed. R. Bankr. P. 2016

Advisory Committee Notes:

This rule provides an alternative fee approach to counsel representing chapter 13 debtors. Ordinarily, counsel representing debtors in chapter 13 cases would be required to support fees paid pre-petition or through a confirmed plan by providing itemization on a time and hour basis. This court has previously as a matter of practice waived, in most cases, the requirement of itemization of services for counsel charging a fee for services in the case not exceeding $1,000.00. *See generally In re Gebert*, 99.4 I.B.C.R. 137, 138 (Bankr. D. Idaho 1999).

The court wishes to ensure reasonable and adequate compensation is paid chapter 13 debtors' counsel; to encourage full performance of duties by such counsel throughout the duration of the case as debtors' needs and changed circumstances require; and to eliminate the expense of serial requests for incremental fees through modified plans. It has elected to do so through a significantly higher presumptively reasonable fee, but conditions its availability to those cases where debtors and their counsel agree to a standard form of retention agreement outlining the mutual duties and responsibilities of attorney and client.

Under this rule, counsel may charge and receive a fixed fee not to exceed the amount provided in a General Order of this court for all services rendered or to be rendered in the chapter 13 case. Use of this alternative requires that the attorney and the client execute the Model Retention Agreement, which may be found in Appendix II of the Local Bankruptcy Rules. A copy of the executed Model Retention Agreement must be attached to counsel's Rule 2016(b) statement.

The contemplation is that this compensation is a fixed fee for all services in the case, and not a base fee that in ordinary cases would be subject to post-confirmation requests for additional fees. However, in extraordinary circumstances, an attorney could seek relief from the fixed fee, and additional compensation, though only upon an application with supporting affidavits, notice, and actual hearing.

LOCAL BANKRUPTCY RULE 3003.1
FILING OF PROOFS OF CLAIM IN CHAPTER 11 CASES

(a) **Time to File**.

Pursuant to Fed. R. Bankr. P. 3003(e)(3) and except as provided in subdivision (b) of this rule, the last day to file proofs of claim in a chapter 11 case shall be ninety (90) days from the first date set for a § 341(a) meeting of creditors. A claim of a governmental unit shall be filed before one hundred eighty (180) days after the date of the order for relief, except as otherwise provided in the Federal Rules of Bankruptcy Procedure. The clerk shall notify all creditors and parties in interest of such bar date.

(b) **Extension.**

The court may, for cause shown, extend the deadline upon appropriate motion, notice, and hearing. If the § 341(a) meeting notice to creditors has already been mailed by the clerk's office, the notification to creditors of an extension of deadline to file claims will be the responsibility of the debtor in possession and its counsel.

Related Authority:
11 U.S.C. §§ 501, 502, 1111(a)
Fed. R. Bankr. P. 3003

Advisory Committee Notes:

The rule does not change the operation of § 1111(a) or Fed. R. Bankr. P. 3003(b)(1) or (c)(2) as to claims scheduled by the debtor as undisputed, non-contingent, and liquidated.

LOCAL BANKRUPTCY RULE 3011.1
UNCLAIMED FUNDS

(a) **Filing of application.**

If a party seeks disbursement of unclaimed funds from a case, an application for withdrawal of funds must be executed and filed with the clerk. The clerk shall serve a copy of the application on the U.S. Attorney.

(b) **Proof of entitlement.**

(1) If the application is filed by a funds locator or other party, on behalf of a creditor in whose name the claim is filed, a signed limited or general power of attorney from the creditor must accompany the application (together with such other documentation required of the creditor under subdivisions (2) and (3) below).

(2) If the application is filed by a creditor, that is a corporation, partnership, or limited liability company, the application must be executed by an authorized officer, a general partner, or the limited liability company manager and accompanied by sufficient verification of capacity, such as articles of incorporation, board meeting minutes, partnership agreement, articles of organization, operating agreement, or other appropriate documentation.

(3) In all cases, sufficient proof of legal capacity and entitlement shall be filed with the application.

(c) **Objections.**

The U.S. Attorney may object by filing a written objection within thirty (30) days of service of the application. An order approving the disbursement will be entered if no timely objection is filed.

Related Authority:
11 U.S.C. § 347; 28 U.S.C. §§ 2041, 2042
Fed. R. Bankr. P. 3010, 3011

Advisory Committee Notes:

The clerk will provide guidelines upon request. The guidelines and form of application can be viewed at www.id.uscourts.gov. The ability to search the unclaimed funds database is also available at the court's website.

LOCAL BANKRUPTCY RULE 3017.1
SMALL BUSINESS CHAPTER 11
REORGANIZATION CASES

(a) **Election to be Considered a Small Business in a Chapter 11 Reorganization Case.**

In a chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election no later than sixty (60) days after the date of the order for relief or by a later date as the court, for cause, may fix.

(b) **Approval of Disclosure Statement.**

(1) Conditional Approval. If the debtor is a small business and has made a timely election to be considered a small business in a chapter 11 case, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with Fed. R. Bankr. P. 3016. On or before conditional approval of the disclosure statement, the court shall:

(A) Fix a time within which the holders of claims and interests may accept or reject the plan;

(B) Fix a time for filing objections to the disclosure statement;

(C) Fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed, and;

(D) Fix a date for the hearing on confirmation.

(2) Application of Fed. R. Bankr P 3017. If the disclosure statement is conditionally approved, Fed. R. Bankr. P. 3017(a), (b), (c), and (e) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying Fed. R. Bankr. P. 3017(d).

(3) Objections and Hearing on Final Approval. Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Fed. R. Bankr. P. 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the U.S. Trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy Code, and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix. If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

Related Authority:
11 U.S.C. § 101(51C)
Fed. R. Bankr. P. 3017.1

Advisory Committee Notes:

This rule is designed to implement §§ 1121(e) and 1125(f) that were added to the Code by the Bankruptcy Reform Act of 1994. These amendments are applicable in cases commenced on or after October 22, 1994.

If the debtor is a small business and has elected under § 1121(e) to be considered a small business, § 1125(f) permits the court to conditionally approve a disclosure statement subject to final approval after notice and a hearing. If a disclosure statement is conditionally approved, and no timely objection to the disclosure statement is filed, it is not necessary for the court to hold a hearing on final approval.

LOCAL BANKRUPTCY RULE 4001.1
USE OF CASH COLLATERAL AND OBTAINING POST PETITION CREDIT

(a) **Motions to Use Cash Collateral.**

Motions by the debtor in possession or trustee for authorization to use cash collateral must contain, at a minimum, the following information:

(1) Identity of all entities known to the debtor or trustee, holding or claiming to hold an interest in cash collateral and a description of such interests;

(2) Identity of the creditor(s) whose cash collateral is to be utilized and the relationship, if any of the creditor(s) to the debtor;

(3) The amount, nature and source of the cash collateral;

(4) If interim use is requested, the amount of cash collateral to be used until the time of the final hearing on the motion to use cash collateral and the amount of cash collateral to be used thereafter;

(5) A line-item budget listing projected income and expenses for one year. If interim use is requested, the budget must also include projected income and expenses until the time of the final hearing on the motion;

(1) The estimated balance owed to the creditor(s) identified in paragraph (a)(2), as of the date the petition was filed, including any accrued, unpaid interest, cost or fees as provided in the agreement;

(7) If the cash collateral is rent, the amount of the gross and net rent realized each month, a description of the property from which the rent is generated, and an estimate of its fair market value;

(8) If the cash collateral is receivables, a description and itemization of such receivables and, if any accounts receivable aging statement exists, the same must be provided to the affected creditor(s) and any party requesting such statement;

(9) The estimated fair market value, and the basis of the estimate, of the collateral which allegedly secures the creditor's claims;

(10) The method or means by which the interests of the creditor are to be adequately protected, and the estimated value, and the basis for the estimate, of any property offered as adequate protection and;

(11) A statement of whether or not the debtor proposes any provision contained in the Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same which is other than a provision normally approved by the court (under subsection (a) of the Guidelines) and, if so, the provision shall be clearly identified.

(b) **Motions to Obtain Credit.**

Motions by the debtor in possession or trustee for authorization to obtain postpetition credit or for approval of a postpetition financing agreement must contain, at a minimum, the following information:

(1) Identity of the lender, vendor or other creditor (hereafter "creditor") and relationship, if any, of the creditor to the debtor.

(2) The amount of credit to be obtained or, in the case of line of credit financing, the maximum amount to be outstanding at any one time.

(3) The terms of credit to be obtained.

(4) If funding is to be incremental, timing of funding or method by which funding is to be determined.

(5) A line-item budget listing projected income and expenses for an appropriate period given the request made. If interim financing is requested, the budget must also include projected income and expenses until the time of the final hearing on the motion.

(6) If the creditor is a pre-petition creditor, the following information:

(A) The balance owed to the creditor, as of the date the petition was filed, including any accrued, unpaid interest, cost or fees provided in the agreement;

(B) If the lender is secured by receivables, an accounts receivable aging statement;

(C) A description of the collateral which allegedly secures the creditor's claims, an estimate of its fair market value, and the basis of the estimate.

(1) A description of the collateral, if any, to secure the postpetition financing, and the current fair market value of that collateral.

(8) If any other entity has, or claims, an interest in the collateral proposed to secure the post-petition credit or financing.

(A) The balance owed that entity;

(B) Whether the interest of that entity is to be subordinated to the post-petition financing; and if so:

(i) Whether the subordinated entity has consented; or

(ii) In the absence of consent, how the interest of that entity is to be adequately protected.

(9) A statement of whether or not the debtor proposes any provision contained in the Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same which is other than a provision normally approved by the court (under subsection (a) of the Guidelines) and, if so, the provision shall be clearly identified.

(c) **Cash Collateral and Credit Agreements**.

Motions for the approval of an agreement for use of cash collateral and/or for postpetition credit or financing must set forth in the body of the motion the information required by paragraphs (a)(1) through (a)(11), and, or (b)(1) through (b)(9), as appropriate, and whether or not the agreement includes any provision contained in the Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same which is other than a provision normally approved by the court, (under subsection (a) of the Guidelines) and, if so, the provision shall be clearly identified.

(d) **Motions Heard on Shortened Time.**

(1) If emergency motions for interim relief made under subsections (a), (b), or (c) of this rule are requested to be heard on shortened time, such request shall be served by facsimile or personal delivery to the entities identified in the applicable provision of Fed. R. Bankr. P. 4001, the United States Trustee, the trustee, if any, and any creditor or party whose rights or interests may be directly affected if the requested relief is granted.

(2) All requests for hearings on shortened time must set forth with specificity:

(A) the immediate and irreparable harm the estate will suffer if relief is not immediately granted;

(B) the extent of the relief required to prevent such immediate and irreparable harm to the estate; and

(C) as much of the information required by subsection (a), (b), or (c) of this rule, as applicable, as may be necessary to establish the necessity of relief to avoid immediate and irreparable harm to the estate pending a final hearing.

(a) **Notice of final hearing.**

Notice of the final hearing on a motion for the use of cash collateral under subsection (a), to obtain credit under subsection (b), or for approval of an agreement under subsection (c) must be given, together with a copy of the motion or agreement if not previously served, to the persons specified in paragraph (d)(1) and such other persons as the court may direct.

Related Authority:
11 U.S.C. §§ 361, 363, 364
Fed. R. Bankr. P. 2002, 4001, 6004, 9006, 9034
LBR 9034.1

Advisory Committee Notes:

The Guidelines Regarding Motions to Use Cash Collateral or to Obtain Credit, or Stipulations Regarding the Same are found in Appendix I of the Local Bankruptcy Rules.

LOCAL BANKRUPTCY RULE 4001.2
MOTIONS REQUESTING RELIEF FROM THE AUTOMATIC STAY

(a) **Motions.**

A request by a party in interest for relief from the automatic stay pursuant to §§ 362(d), 1201(c), or 1301(c) shall be made by filing a motion with the court, and paying the applicable fee. There is no fee for a motion for co-debtor relief under §§1201 or 1301.

(b) **Requisite Information in Motions.**

The motion shall:

(1) Identify the nature of the stay relief sought;

(2) Provide the details of the underlying obligation or liability upon which the motion is based;

(3) Contain an itemization of amounts claimed to be due upon the obligation;

(4) When appropriate, state the estimated value of any collateral for the obligation and the method used to obtain the valuation;

(5) Attach accurate and legible copies of all documents evidencing the obligation and the basis of perfection of any lien or security interest;

(6) Attach copies of recorded documents if any documents are recorded with the secretary of state, county recorder, or other lawfully designated recording agency;

(7) Include the notice required by subsection (g) and the proof of service required by subsection (h) and;

(8) Be accompanied by a proposed order for entry by the court in the event of lack of objection, which order shall comply with LBR 9004.1.

(c) **Objections.**

Any party in interest opposing the motion must file and serve an objection thereto not later than seventeen (17) days after the date of service of the motion. The objection shall specifically identify those matters contained in the motion that are at issue and any other basis for opposition to the motion. The objection shall also contain the notice of hearing required by subsection (e)(1) and the proof of service required by subsection (h). Absent the filing of a timely objection, the court may grant the relief sought without a hearing.

(d) **Service.**

(1) Motions. If relief is sought under § 362(d), the motion shall be served upon the debtor, debtor's attorney, the trustee if one has been appointed, upon any committee or other creditors as required in Fed. R. Bankr. P. 4001(a)(1), and on any other party known to movant claiming an interest in any property subject of the motion.

(2) Motions for Co-debtor Stay Relief. If relief is sought under §§ 1201(c) or 1301(c), the motion shall be served upon the debtor, debtor's attorney, the trustee, any co-debtor affected thereby, and on any other party known to the movant claiming an interest in any property subject of the motion.

(3) Objections. If an objection is filed to a motion for stay relief, the objection shall be served upon the movant and upon all parties receiving service of the motion.

(e) **Hearings.**

(1) Scheduling. A party opposing a motion shall contact the court's calendar clerk to schedule a preliminary hearing. The objection to a motion shall include the notice of such hearing.

(A) Upon court approval, the movant may schedule a hearing for cause shown in the motion or other submissions.

(2) Preliminary Hearing Procedure. At the preliminary hearing, the parties shall be prepared to make specific representations to the court as to the proof and evidence to be submitted at any final hearing. In particular, the parties shall advise the court with specificity as to the issues to be presented at a final hearing, the identity of any witnesses expected to testify, and a summary of the expected testimony.

(3) Final Hearing. Unless otherwise ordered by the court, the parties, not later than five (5) days prior to any scheduled final hearing, shall;

(A) File a list of witnesses expected to testify; and

(B) Exchange copies of any exhibits to be offered.

(4) Vacation of Hearings. Once scheduled, a preliminary hearing or final hearing may be vacated or continued only upon compliance with LBR 2002.2(f).

(f) **Emergency Relief Motions**.

This rule does not affect a motion for relief brought under § 362(f) and Fed. R. Bank. P. 4001(a)(2).

(g) **Required Notice.**

In any motion filed under this rule, the movant shall include a notice of the requirements of subdivision (c), (d)(3), and (e)(1), of this rule. In addition, if relief is sought from the automatic stay against acts against property of the estate under § 362(d) and (e), the notice shall also advise the party against whom relief is sought of the requirements of § 362(e).

(h) **Proof of Service**.

Any motion, objection or other pleading filed under this rule shall include an appropriate proof of service.

(i) **Sanctions.**

The court may impose appropriate sanctions against any party and/or counsel who fails to prosecute or defend the motion in good faith, contrary to the representations made in its pleadings or preliminary hearing, or violates the requirements of this rule.

Related Authority:
11 U.S.C. § 362
Fed. R. Bankr. P. 4001, 9006, 9013, 9014
LBR 2002.2 9004.1

Advisory Committee Notes:

This rule specifically requires certain information to be included in a motion for relief from stay. A response must fairly meet the grounds of the motion. Both of these requirements are enhanced by the requirement of specificity in representation at the preliminary hearing. The Advisory Committee considered and rejected requiring affidavits in regard to factual issues presented. (*See, e.g.*, Fed. R. Bankr. P. 7056). However, even though the current practice of allowing representation of counsel is continued, in order to achieve the goal of productive preliminary hearings, factual detail in such representation is mandated. Failure of counsel to adhere to this standard may lead to sanction under the rule. *See* Fed. R. Bankr. P. 9011 (Fed. R. Civ. P. 11).

Notes to 2004 revisions. Under the revised rule, unless cause is shown and prior court permission is obtained, the moving party may not schedule a stay relief motion for hearing at the time of filing such a motion. Instead, a party opposing a motion must file a detailed objection, obtain a hearing date from the calendar clerk, and provide notice of both objection and hearing at the time of filing the objection. An objection without a properly noticed and timely conducted hearing will be ineffective to prevent automatic relief under § 362(e)

Notes to 2005 Revisions. Due to the implementation of electronic filing of motions (ECF) as of January 1, 2005, the proposed order required by subdivision (b)(8) of this rule must be submitted in accordance with the court's ECF procedures. *See* generally LBR 5003.1.

LOCAL BANKRUPTCY RULE 4002.1
PROPERTY IN NEED OF ATTENTION OR PROTECTION

(a) **Inventory or Equipment**.

When a stock of goods or business equipment is scheduled, the debtor shall, immediately after the general description thereof, list a present inventory, append a brief explanation of its exact location, the name and address of the custodian thereof, the protection being given such property, and the amount of fire and theft insurance, if any, and state whether prompt additional attention or protection is necessary.

(b) **Need for Immediate Action**.

If a stock of goods includes perishables, or if property or the business premises otherwise requires immediate attention or protection, the debtor or the debtor's attorney, when relief is ordered under chapter 7 or 13, or a trustee is appointed under chapter 11, shall notify the trustee of the need for immediate action. Notification shall be by personal communication, telephone, or by facsimile.

Related Authority:
11 U.S.C. §§ 521(4), 704

Advisory Committee Notes:

While this rule reflects current practice in many cases that fall within its scope, it is anticipated that the rule will provide the trustee with additional necessary information in a timely manner in other cases.

LOCAL BANKRUPTCY RULE 4003.1
EXEMPTIONS

(a) **Claim of Exemptions**.

The Idaho Code section under which any exemption is claimed, and each item of property claimed as exempt, shall be described with specificity, without reference to other schedules.

(b) **Claim of Exemption by Joint Debtors**.

If joint debtors claim separate exemptions under § 522(m), each debtor must make and file a separate itemization in the manner prescribed by subdivision (a) of this rule.

(c) **Objections to Exemptions**.

An objection to a claimed exemption shall state the specific exemption objected to and state the grounds upon which the objection is based. The objection may be sustained and the exemption disallowed without a hearing, unless a hearing is requested and set by the debtor(s), the trustee, or a party in interest.

Related Authority:
11 U.S.C. § 522
Idaho Code §§ 11-604, 11-605 and 55-1001, et seq.
Fed. R. Bankr. P. 1007, 4003

Advisory Committee Notes:

This rule addresses the common problem of failure of the debtors to provide sufficient information regarding the exemptions claimed. It also reflects, in subdivision (c), the fact that hearings in many cases are not needed or demanded by debtors after review of the objection. Under Fed. R. Bankr. P. 4003(b), copies of an objection to a claim of exemption must be delivered or mailed to the trustee, the person claiming the exemption, and the attorney for such person. The debtor's right to a hearing is preserved, however. The trustee may also request and set a hearing. This may be necessary, for example, in cases where the debtor amends the claim of exemption but such amendment is itself objectionable or does not fully resolve the original objection.

LOCAL BANKRUPTCY RULE 4003.2
AVOIDANCE OF LIENS ON EXEMPT PROPERTY

(a) **Specificity.**

All § 522(f) lien avoidance motions shall contain a specific description of the lienholder's interest to be avoided including, where applicable, the instrument number and the recording governmental unit. The motion shall also specify the statutory exemption that is impaired and the creditor's name.

Further, all attendant orders shall specifically describe the avoided lienholder's interest, the extent that the lien is avoided, and the statutory basis for the impairment. If the avoided interest is represented by a recorded document, the order shall further provide the type of recorded instrument avoided, its date of recording, the recording governmental unit, and recording instrument number.

(b) **Nature of Relief.**

The language contained in such motions to avoid lien and attendant orders should be substantially identical to the language of § 522(f).

(c) **Notice.**

Notice of such a motion to avoid a lien pursuant to § 522(f) need be given only to the trustee and to the creditor claiming the lien.

Related Authority:
11 U.S.C. § 522(f)
Fed. R. Bankr. P. 4003(d), 9014

Advisory Committee Notes:

Many § 522(f) lien avoidance motions and orders are factually incomplete, vague, or ambiguous. Additionally, the court has found that many of the proposed orders granting relief improperly recite that the lien is absolutely "void," rather than avoided "to the extent that such lien impairs an exemption to which the debtor would have been entitled."

Debtor's counsel may want to consider:

(i) attaching accurate and legible copies of all documents evidencing the lienholder's interest to be avoided, and the basis of perfection of any lien or security interest;

(ii) attaching copies of recorded documents, if any documents are recorded with the county recorder, secretary of state, or other lawfully designated recording agency; and

(iii) describing specifically the property upon which the lien is claimed and to be avoided.

LOCAL BANKRUPTCY RULE 4008.1
REAFFIRMATIONS

(a) **Where Debtor is Represented by Counsel.**

Applications for approval of reaffirmation agreements in cases in which the debtor is represented by counsel shall be accompanied by a copy of the reaffirmation agreement signed by both the creditor and the debtor(s), and by an affidavit or declaration by debtor's attorney executed pursuant to § 524(c)(3) of the Bankruptcy Code, Such applications shall either;

(1) Be scheduled for hearing before the court, at which hearing the debtor and debtor's attorney must be present; or

(2) Be accompanied by a written waiver of hearing signed by the creditor and the debtor(s), provided, however, the court may require a hearing on the application.

(b) **Content of Reaffirmation Agreements and Counsel's Affidavit or Declaration.**

In addition to any other appropriate provisions, all reaffirmation agreements and affidavits or declarations of counsel submitted in connection therewith must contain the information required by § 524(c) of the Bankruptcy Code, and substantially conform to or provide the information, documentation, and explanations required by Procedural Form B240.

Related Authority:
11 U.S.C. § 524
Fed. R. Bankr. P. 4008

Advisory Committee Notes:

This rule attempts to reflect current practice, including the lack of mandatory "discharge hearings," in this district. The rule contemplates, in subdivision (c) that a hearing will be held only upon the request of a party, and that notice of such hearing will be filed with the application and an executed agreement.

Though a procedural form, not an official form, the use of Procedural Form B240 is strongly recommended.

LOCAL BANKRUPTCY RULE 5003.1
ELECTRONIC CASE FILING

(a) **Official records of the Court.**

The docketing and case management system for the Bankruptcy Court for the District of Idaho shall be the Case Management and Electronic Case Filing Program (CM/ECF). The official record of the court shall be all documents filed electronically, all documents converted to an electronically filed format, and all documents filed and not capable of conversion to electronic format or otherwise ordered by the Court to be maintained.

(b) **Establishment of Electronic Case Filing Procedures.**

The clerk of the court is authorized to establish and promulgate Electronic Case Filing Procedures ("ECF Procedures"), including the procedure for registration of attorneys and other authorized users, and for issuance and control of passwords to permit electronic filing and notice of pleadings and other papers. The clerk may modify the ECF Procedures from time to time, after conferring with the Chief Judge. The ECF Procedures shall be made available to the public on the Court's website (www.id.uscourts.gov) and copies shall be available at all divisional court offices.

(c) **Scope of electronic filing.**

Unless expressly prohibited, the filing of all documents required or permitted to be filed with the court in connection with a bankruptcy case or adversary proceeding may be accomplished electronically. Any and all references to "filing" or "service" in these Local Bankruptcy Rules shall be interpreted to include filing or service by electronic means consistent with the ECF Procedures and any applicable General Order. Local Bankruptcy Rule provisions which are or may be in conflict with CM/ECF shall be superceded by the ECF Procedures and/or applicable General Order until such time as appropriate rule amendments are promulgated.

Related Authority:
Fed. R. Bankr. P. 5003, 5005

Advisory Committee Notes:

Effective January 1, 2005, the Bankruptcy and District Courts in the District of Idaho implemented electronic case filing (CM/ECF). This rule provides that the electronic record maintained by the clerk shall be the official record for all purposes, and provides an initial transition to CM/ECF while amendments to the Local Rules are considered. Detailed procedures are found in the clerk's ECF Procedures and in the Court's General Order(s), which are available on the Court's website or at any clerk's office. All references in the Local Bankruptcy Rules to "filing" or "service" (except service or process) are deemed to include electronic filing and/or service, even though more detailed amendments of the Local Bankruptcy Rules may later be made.

LOCAL BANKRUPTCY RULE 5003.2
SEALED DOCUMENTS AND PUBLIC ACCESS

(a) **Motion to File Under Seal**

Parties seeking to file a document under seal shall file an ex parte motion to seal, along with supporting memorandum and proposed order, and lodge the document with the clerk of the court. Said motion must contain "MOTION TO SEAL" in bold letters in caption of pleading.

(b) **Motion to Seal Existing Documents**

Parties seeking to place a pending case or previously filed document under seal shall file an ex parte motion to seal, along with supporting memorandum and proposed order, and lodge the document with the clerk of the court. Said motion must contain "MOTION TO SEAL" in bold letters in caption of pleading. Portions of a document cannot be placed under seal. Instead, the entire document must be placed under seal in order to protect confidential information.

(c) **Public Information**

The clerk of court shall file and docket the motion to seal in the public record of the court. All lodged documents under seal will not be docketed, imaged or available for public inspection unless otherwise ordered by the court.

(d) **Format of Lodged Documents Under Seal**

Counsel lodging the material to be sealed shall submit the material in an **UNSEALED** 8½ x 11 inch manilla envelope. The envelope shall contain the title of the court, the case caption and case number.

(e) **Procedures**

The clerk of the court will forward the lodged documents to the assigned judge for consideration. The assigned judge will direct the clerk to:

(1) File the document under seal with any further instructions; or

(2) Return the documents to the moving party with appropriate instructions; or

(3) File the documents or materials (unsealed) in the public record**.**

(f) **Return of Sealed Documents to Public Record**

Because the Federal Records Center prohibits the storage of sealed records or documents, the clerk must unseal all documents and cases prior to shipment of any record to the Federal Records Center. Absent any other court order, the sealed document will be returned to the submitting party after the case is closed, and the appeal time has expired, or if appealed, after the conclusion of all appeals.

Related Authority:
11 U.S.C. § 107
28 U.S.C. § 156 (e)
Fed. R. Bankr. P. 5003, 5005, 5007, 7005

LOCAL BANKRUPTCY RULE 5005.1
VENUE

(a) **Hearings and Meetings**.

Bankruptcy Court hearings and § 341(a) meetings are regularly scheduled in Boise, Coeur d'Alene, Moscow, Pocatello, Twin Falls, and Jerome.

(b) **Filing of Pleadings and Papers**.

All pleadings, motions, and other pertinent papers may be filed with the office of the clerk of court in Boise, Pocatello, Moscow, and Coeur d'Alene. When a judge is sitting elsewhere in the district, such papers may be filed with the deputy clerk at such place.

Related Authority:
28 U.S.C. § 156
Fed. R. Bankr. P. 5005

Advisory Committee Notes:

Hearings and § 341(a) meetings are held in various sites depending upon the county of the debtor's residence or principal place of business. Certain hearings may be heard by video conference - see Advisory Committee Notes of LBR 2002.2

The court's and U.S. Trustee's designation of counties within each area is as follows:

Eastern Calendar (Pocatello):

> Matters before the court and § 341(a) meeting of creditors: Federal Building & U.S. Courthouse, 801 E. Sherman, Pocatello, Idaho

Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton.

South Central Idaho Calendar (Twin Falls for routine or uncontested court hearings and Jerome for § 341(a) meetings):

> Matters before the Court: Snake River Adjudication District Court, 253 3rd Ave N, Twin Falls, Idaho
>
> Section 341(a) meeting of creditors: Jerome County Courthouse, 300 N Lincoln, 2nd Floor, Jerome, Idaho

Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls.

Southern Calendar (Boise):

> Matters before the court: Federal Building & U.S. Courthouse, 550 W Fort St, 5th Floor, Boise, Idaho
>
> Section 341(a) meeting of creditors: Office of U.S. Trustee, Federal Building & U.S. Post Office, 8th & Bannock Sts, 3rd Floor, Rm 333, Boise, Idaho

Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington (and referred Malheur County, Oregon cases).

Central Calendar (Moscow);

> Matters before the court and § 341(a) meeting of creditors: Federal Building & U.S. Courthouse, 220 E 5th St, Moscow, Idaho

Clearwater, Idaho, Latah, Lewis, Nez Perce.

Northern Calendar (Coeur d'Alene):

> Matters before the court and § 341(a) meeting of creditors: Federal Building & U.S. Courthouse, 205 N 4th St, Rm # 216, Coeur d'Alene, Idaho

Benewah, Bonner, Boundary, Kootenai, Shoshone.

This rule contemplates continuation of the current practice of not allowing the filing of any pleadings at the time of the § 341(a) meeting of creditors. It further eliminates the practice of allowing the filing of amendments to schedules, etc., at the § 341(a) meeting since the same are not time-critical and can be mailed to the court. It also reflects the fact that the U.S. Trustee and panel trustees, and not the clerk, conduct such meetings.

LOCAL BANKRUPTCY RULE 5005.2
DOCUMENTS FOR FILING OR ADMINISTERING

(a) **Petitions.**

Except as provided in Fed. R. Bankr. P. 5005(a), at the time of filing a petition the document may be reviewed for legibility; correct size of paper (8 ½ x 11); must be affixed by a fastener (i.e., paper clip,) and NOT staples, sufficient number of copies; correctness of fee or application for payment of fees in installments; Master Mailing List, attorney's Fed. R. Bankr. P. 2016(b) disclosure statement, if application for payment of fees in installments is submitted; and signatures of the debtor/joint debtor.

(b) **No Filing Fee or an Inappropriate Amount Submitted; and Facsimile Pleadings.**

The clerk has been given authority by General Order No. 154 to refuse to accept or file:

(1) Any facsimile pleadings mailed or faxed to the clerk, and;

(2) Any petition or pleading not accompanied by the required filing fee under 28 U.S.C. §1930.

(c) **General Format of Papers Presented for Filing**.

The following information must appear in the upper left-hand corner of the first page of each paper presented for filing, except that in multiparty actions or proceedings, reference may be made to the signature page for the complete list of parties represented:

(1) Name of the attorney (or if in propria persona, of the party);

(2) Idaho State Bar Number (if applicable);

(3) Office mailing address;

(4) Telephone number;

(5) Facsimile number;

(6) E-mail address (if available) and;

(7) Specific identification of the party represented by name and interest in the litigation (i.e., debtor, creditor, plaintiff, defendant, etc.).

Following the counsel identification and commencing four (4) inches below the top of the first page, (except where additional space is required for identification) the following caption must appear:

UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO

(Party Name))
)
Party Type) Case Number: _____
)
)
)
_____)

(1) Title of the court;

(2) The title of the bankruptcy case;

(3) The file number of the bankruptcy case, including the three letter suffix indicating the assigned judge (*i.e.*, 05-00001-TLM or 05-00001-JDP);

(4) The category of the action or proceeding as provided hereinafter in these rules;

(5) A title describing the pleading and;

(6) Any other matter required by this rule.

Related Authority:

28 U.S.C. § 1930
Fed. R. Bankr. P. 2016, 5005
LBR 1002.1, 1006.1, 1006.2, 1007.1, 1009.1, 4001.2, 5007.1, 5010.1, 7003.1, 9004.1, 9004.2
D. Id.L.Civ.R. 5.1
District of Idaho General Order nos. 97 and 154

Advisory Committee Notes:

The procedures on facsimile filing are governed by District of Idaho General Order 154 . For the procedures please, call the local clerk's office.

LOCAL BANKRUPTCY RULE 5007.1
FILES, RECORDS AND EXHIBITS

(a) **Custody and Withdrawal**.

All files and records of the court, except those sealed by order of the court, shall remain in the custody of the clerk, subject to examination by the public without charge. No record, paper, or article belonging to the files of the court shall be taken from the custody of the clerk without a special order of the court and a receipt given by the party obtaining it, describing the item and date of receipt, except as otherwise provided in this rule. Withdrawal orders will be made only in exceptional circumstances.

(b) **Exhibits Part of Files**.

Every exhibit offered in evidence, whether admitted or not, becomes a part of the files.

(c) **Substitution of Copies**.

Unless there be some special reason why original exhibits or depositions should be retained, the bankruptcy court may, on stipulation or application, order them returned to the party to whom they belong upon filing of a copy, either certified by the clerk or approved by counsel, for all parties concerned.

(d) **Disposition of Exhibits**.

(1) Delivery to Person Entitled. In all proceedings in which final judgment has been entered, and the time for filing a motion for new trial or rehearing and for appeal has passed, or in which a final order on appeal has been entered, any party or person may withdraw any exhibit or deposition originally produced by such party without court order, upon ten (10) days written notice to all parties, unless within that time another party or person files notice of claim thereto with the clerk. In the event of competing claims, the court shall determine the person entitled and order delivery accordingly. For good cause shown, the court may allow withdrawal or determine competing claims in advance of the time above specified.

(2) Unclaimed Exhibits. If exhibits or depositions are not withdrawn within thirty (30) days of the time when notice may be given under subdivision (1) of this subdivision (d), the clerk may destroy them or make other disposition as appears proper.

(e) **Retention of Electronic Recordings**.

(1) Section 341(a) Meetings. Retention and preservation of electronic sound recordings of the § 341(a) meeting of creditors is the responsibility of the U.S. Trustee. Copies of the recordings may be obtained from the U.S. Trustee.

(2) Court Hearings and Proceedings. Electronic sound recording and/or court reporter's stenographic records of any bankruptcy court proceeding shall be retained and preserved by the clerk. Copies of the recordings may be obtained from the clerk upon payment of the duplication fee. Transcripts may be obtained upon written request. Requests for duplication or transcripts shall identify the name, address, and phone number of the requesting attorney, the case name and case number, and the date of the subject hearing or proceeding.

Related Authority:
11 U.S.C. § 107
28 U.S.C. § 156(e)
Fed. R. Bankr. P. 5007 and 2003(c)

Advisory Committee Notes:

Subdivision (e) reflects the current administrative requirements that control the clerks and U.S. Trustee's retention of electronic recordings of meetings and proceedings. Transcription from the duplicate tape of the § 341(a) meeting of creditors is the responsibility of counsel, while the clerk will obtain the transcript of court hearings and charge counsel therefore. The Advisory Committee determined not to address issues of "certification" or the evidentiary use of such transcriptions.

LOCAL BANKRUPTCY RULE 5009.1
CLOSING OF CASES

(a) **Closing of Cases.**

The clerk may close any open case which is otherwise eligible for closing despite a motion pending therein if a hearing date on such motion has not been obtained from the clerk within twenty (20) days of the filing of the motion, or where an order has not been submitted by the moving party within twenty (20) days of the date when such an order could properly be executed.

(b) **Final Decree in Chapter 11 Reorganization Case.**

(1) The debtor shall provide certain statistical information to the clerk, including:

(A) Percent of dividend to be paid;

(B) Amounts paid or to be paid for:

Trustee compensation
Attorney for trustee
Attorney for debtor
Other professionals (e.g. accountant, bookkeeper, auctioneer, etc)
All expenses, including trustee's;

(C) Total amounts for claims allowed (listed separately):

Secured
Priority
Unsecured
Equity security holders.

(2) A final decree closing the case after the estate is fully administered does not affect the right of the court to enforce or interpret its own orders.

(3) The clerk may close an open chapter 11 case subsequent to entry of an order confirming a plan of reorganization upon provision of not less than thirty (30) days written notice to the debtor(s), to counsel for debtor(s), and to the U.S. Trustee.

Related Authority:
11 U.S.C. § 350
Fed. R. Bankr. P. 3022, 5009

Advisory Committee Notes:

Entry of a final decree closing a chapter 11 case should not be delayed solely because the payments required by the plan have not been completed. Fed. R. Bankr. P. 3022. Many cases otherwise eligible to be closed have pending motions never brought on for hearing and/or stipulations upon which orders have never been presented. This rule is designed to encourage the prompt noticing of matters and submission of orders. *See* LBR 5010.1.

Upon request, the clerk will furnish a chapter 11 form for the required closing statistical information. The form can be viewed at www.id.uscourts.gov.

LOCAL BANKRUPTCY RULE 5010.1
REOPENING FEES AND PROCEDURES

Any party wishing to file a pleading or other document in a closed case must submit a motion and order reopening the case and pay the attendant fee.

Related Authority:
11 U.S.C. § 350(b)
Fed. R. Bankr. P. 5009, 5010

Advisory Committee Notes:

There are only limited circumstances where the court may act without reopening a case. *See* Fed. R. Bankr. P. 9024. The "attendant fee" is the same as the filing fee for a case under such chapter in effect as of the time of the motion to reopen.

The court may waive the filing fee in the event of a clerical error in closing.

LOCAL BANKRUPTCY RULE 7001.1
DISMISSAL OF ADVERSARY PROCEEDINGS
CONTESTING DISCHARGE

An adversary proceeding objecting to entry of discharge of the debtor(s) or seeking to revoke entry of discharge of the debtor(s) shall be dismissed only upon compliance with the following conditions.

(a) **Motion.**

The plaintiff shall file a motion that sets forth with particularity the grounds upon which the request for dismissal is based.

(b) **Affidavit.**

Contemporaneously with such motion, there must be filed an affidavit of the plaintiff setting forth any consideration, monetary or otherwise, received in connection with such requested dismissal.

(c) **Service of Pleadings.**

Proof of service of the motion and affidavit provided for in subdivisions (a) and (b) of this rule, reflecting service upon the trustee and upon any committee appointed under the Code, must be filed within five (5) days of the motion.

(d) **Notice to Creditors and Hearing.**

Notice of an intended dismissal and hearing shall be issued by the moving party and served upon all creditors and parties in interest in the debtor(s)' case, and proof of such service filed with the clerk.

(1) This requirement of notice shall not apply to dismissal of adversary proceedings brought by a trustee to deny or revoke discharge on the grounds of failure to file tax returns, failure to amend schedules, or failure to turn over property or records.

Related Authority:
11 U.S.C. §§ 727, 1141, 1228, 1328
18 U.S.C. § 152
Fed. R. Bankr. P. 7001(4), 7041

Advisory Committee Notes:

Fed. R. Bankr. P. 7041, and case precedent limit voluntary dismissal of complaints generally objecting to discharge of debtors (as contrasted with those actions under §523 of the Code contesting dischargeability of individual debts). This rule clarifies the requirements previously imposed by the court in most cases. Subdivision (b) is, in part, in reference to the criminal prohibition upon the giving, receiving, offering or seeking to obtain any money, property or other advantage in return for acting or forbearing to act in a case under Title 11, U.S.Code.

LOCAL BANKRUPTCY RULE 7003.1
COMMENCEMENT OF ADVERSARY PROCEEDINGS

(a) **Cover Sheet.**

A completed "Adversary Proceeding Cover Sheet" and attendant fee shall accompany every complaint commencing an adversary proceeding under Fed. R. Bankr. P. 7003 together with a summons prepared in compliance with the Federal Rules of Civil Procedure, with sufficient copies for service. The clerk upon request will furnish blank forms for compliance with this rule.

(b) **Form**.

All pleadings in an adversary proceeding shall meet the requirements of Fed. R. Bankr. P. 7010 and the Official Forms, including identification of the debtor and the debtor's bankruptcy case number.

(1) The bankruptcy case number shall include the three letter suffix indicating the assigned judge (*i.e.*, 05-00001-TLM or 05-00001-JDP).

(c) **Adversary Number and Summons.**

Upon the filing of a complaint under Fed. R. Bankr. P. 7003, the clerk will assign the proceeding an adversary number, which number must thereafter appear on all pleadings and issue the summons which will then be returned to the plaintiff who will be responsible for service according to Fed. R. Bankr. P. 7004.

(1) The adversary case number shall include the three letter suffix indicating the assigned judge (*i.e.*, 05-6001-TLM or 05-6001-JDP).

Related Authority:
Fed. R. Bankr. P. 7003, 7004, 7010, 9004(b)

LOCAL BANKRUPTCY RULE 7005.1
NON-FILING OF DISCOVERY AND LIMITATIONS ON DISCOVERY

(a) **Adversary Proceedings.**

All discovery, including depositions upon oral examination or written questions, interrogatories, requests for production of documents, requests for admissions, and answers and responses thereto, shall be served but shall not be filed except upon order of a judge following a motion by a party in interest.

(b) **Contested Matters.**

All discovery made in a contested matter pursuant to Fed. R. Bankr. P. 9014, including depositions upon oral examination or written questions, interrogatories, requests for production of documents, requests for admissions, and answers and responses thereto, shall be served but shall not be filed with the court except upon order of a judge following a motion by a party in interest.

(c) **Limitations on Discovery.**

All discovery made in a contested matter pursuant to Fed. R. Bankr. P. 9014 is subject to the following limitations absent stipulation of the opposing party or order of a judge upon a showing of good cause waiving or modifying such limitations:

(1) Interrogatories: No party shall serve upon any other party more than twenty-five (25) interrogatories, in which sub parts of interrogatories shall count as separate interrogatories.

(2) Requests for Admission: No party shall serve upon any other party more than twenty-five (25) requests for admissions.

Related Authority:
Fed. R. Bankr. P. 7005, 7026, 7033, 7036, 9014
LBR 9014.1

Advisory Committee Notes:

Subdivisions (a) and (b) are designed to eliminate the filing burden upon the court in the majority of cases where discovery is never utilized prior to or at trial or prior to disposition of the case, as well as eliminate any potential problems caused by the nature or admissibility of the material included in the discovery requests or responses.

The provision of the rule set forth in subdivision (c) is meant to control abuses of discovery processes in regard to motion practice under the provisions of Fed. R. Bankr. P. 9014 regarding "contested matters" while still preserving availability and usefulness of discovery in proper circumstances. Under extraordinary circumstances, the court may modify the limitations.

LOCAL BANKRUPTCY RULE 7041.1
DISMISSAL OF INACTIVE ADVERSARY PROCEEDINGS

(a) **Dismissal.**

In the absence of a showing of good cause for retention, any adversary proceeding in which no action has been taken for a period of sixty (60) days may be dismissed, without prejudice, at any time.

(b) **Notice.**

At least twenty (20) days prior to such dismissal, the clerk shall give notice of the pending dismissal to all attorneys of record and to any party appearing on its own behalf in such adversary proceeding. The notice shall be sent to the last address of such attorneys or parties as shown in the official court adversary proceeding file.

Related Authority:
Fed. R. Bankr. P. 7041

Advisory Committee Notes:

The rule does not refer to "contested matters" under Fed. R. Bankr. P. 9014 since justification for a similar rule is not present for motions within a case.

LOCAL BANKRUPTCY RULE 7054.1
TAXATION OF COSTS

(a) Within fourteen (14) days after entry of judgment under which costs may be claimed, the prevailing party may serve and file a cost bill in the form prescribed by the court, requesting an itemized taxation of costs. The cost bill must itemize the costs claimed and be supported by a certificate of counsel that the costs are correctly stated, where necessarily incurred and are allowed by law. The court will enforce the provisions of 28 U.S.C. § 1927 in the event an attorney or other person admitted to practice in this court causes an unreasonable increase in costs. Not less than twenty (20) days after receipt of a party's cost bill, the clerk, after consideration of any objections, will tax costs and serve copies of the cost bill upon all parties of record. The cost bill should reflect the clerk's actions to each item contained therein. Within fourteen (14) days after service by any party of its cost bill, any party may file and serve specific objections to any items setting forth the grounds for the objection.

(b) Generally, the prevailing party is the one who successfully prosecutes the action or successfully defends against it, prevails on the merits of the main issue, and the one in whose favor the decision or verdict is rendered and judgment entered.

(c) Costs must be taxed in conformity with the provisions of 28 U.S.C. § 1920-1923 and other provisions of law as may be applicable and any directives as the court may issue from time to time. Taxable items include:

(1) Clerk's Fees and Service Fees. Clerks fees (see 28 U.S.C. § 1920) and service fees as allowed by statute.

(2) Trial Transcripts. The cost of the originals of a trial transcript, a daily transcript, or of a transcript of matters prior or subsequent to trial, furnished the court are taxable at the rate authorized by the Judicial Conference when either requested by the court or prepared pursuant to stipulation. Acceptance by the court does not constitute a request. Copies of transcripts for counsel's own use are not taxable unless approved in advance by the court.

(3) Deposition Costs. The prevailing party may recover the following costs relative to depositions used for any purpose in connection with the case:

i. The cost of the original deposition plus one copy (where prevailing party was the noticing party;

ii. The cost of a copy of a deposition (where prevailing party was not the noticing party; and

iii. The cost of video-taped depositions.

The prevailing party who noticed the deposition may recover the reasonable expenses incurred for reporter fees, notary fees and the reporter's/notary's travel and subsistence expenses. In addition, witness fees, whether or not the witness was subpoenaed are taxable at the same rate as attendance at trial. The reasonable

fee for a necessary interpreter to attend a deposition is also taxable on behalf of

the prevailing party. Attorney's fees and expenses incurred in arranging for or taking a deposition are not taxable.

(4) Witness Fees, Mileage and Subsistence. The rate for witness fees, mileage, and subsistence are fixed by statute (28 U.S.C. § 1821). Such fees are taxable even though the witness does not take the stand, provided the witness necessarily attends court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. The mileage taxation is based on the most direct route. Mileage fees for travel and subsistence are taxable only for the reasonable period during which the witness is within the district. No party shall receive witness fees for testifying on their own behalf except where a party is subpoenaed to attend court by the opposing party. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than is statutorily allowed for ordinary witnesses. Allowance of fees for a witness on deposition must not depend on whether the deposition is admitted in evidence.

(5) Copies of Papers and Exhibits. The cost of an exhibit necessarily attached to a document (or made part of a deposition transcript) required to be filed and served is taxable. The cost of reproducing the required number of copies of the clerk's record on appeal is allowable.

(6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The reasonable cost of maps, diagrams, visual aids, and charts are taxable if they are admitted into evidence. The cost of photographs are taxable if admitted into evidence or attached to documents required to be filed and served on opposing counsel. Enlargements greater that 8"x10" are not taxable except by order of the court. The cost of models is not taxable except by order of the court. The cost of compiling summaries, computations, and statistical comparisons is not taxable.

(7) Interpreter and Translator Fees. The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable. The reasonable fee of a competent translator is taxable if a document translated is necessarily filed or admitted in evidence.

(8) Other items may be taxed with prior court approval.

(9) Certificate of Counsel. The certificate of counsel required by 28 U.S.C. § 1924 and the rules are *prima facie* evidence of the facts recited therein. The burden is on the opposing party to establish that a claim is incorrectly stated, unnecessary, or unreasonable.

(d) A review of the decision of the clerk in the taxation of costs may by taken to the court on a motion to retax by any party, pursuant to Fed. R. Civ. P. 54(d) , upon written notice thereof, served and filed with the clerk within five (5) days after the costs have been taxed in the clerk's office, but not after. The motion to retax must specify the ruling of the clerk excepted to, and no others will be considered. The motion will be considered and determined upon the same papers and evidence used by the clerk and upon such memoranda of points and authorities as the court may require. A hearing may be scheduled at the discretion of the court.

Related Authority:
28 U.S.C. § 1920
Fed. R. Bankr. P. 7054(b)

Advisory Committee Notes:

This rule is generally consistent with the District of Idaho Local Civil Rules.

LOCAL BANKRUPTCY RULE 7056.1
MOTIONS FOR SUMMARY JUDGMENT
AND PROCEEDINGS THEREON

(a) **Motions**.

A request by a party for summary judgment pursuant to Fed. R. Bankr.P. 7056 shall be made by motion filed, served and heard in compliance with the provisions of this rule, absent an order of the Court providing otherwise.

(b) **Submissions and Hearings**.

(1) The motion, affidavits and supporting brief shall be filed and served at least twenty-eight days before the time fixed for the hearing.

(a) The moving party shall provide at the same time, either in its brief or in a separate pleading, a statement of asserted undisputed facts. The statement shall consist of short, numbered paragraphs, including for each specific reference to the affidavits, parts of the record, or other materials relied upon to the support the facts set forth. Failure to submit such a statement constitutes grounds for denial of the motion without hearing.

(2) If the adverse party desires to serve opposing affidavits, that party shall do so at least fourteen (14) days before the date of the hearing. The adverse party shall also serve a responsive brief at least fourteen (14) days prior to the hearing.

(a) The opposing party must also respond, at the same time, to the moving party's statement of asserted undisputed facts, specifically responding to each paragraph of such statement.

(3) The moving party may thereafter serve a reply brief not less than seven (7) days prior to the hearing.

(4) Other than as provided herein, absent an order of the Court to the contrary for good cause shown, no other pleadings shall be filed on a summary judgment motion.

(c) **Oppositions Based on Unavailability of Affidavits**.

If a party responding to a motion for summary judgment intends on opposing such motion through an affidavit pursuant to Fed. R. Civ. P. 56(f), incorporated by Fed. R. Bankr. P. 7056, such affidavit and a supporting brief must be filed within the time set forth in subdivision (b)(2) of this rule.

(d) **Noncompliance or Affidavits Made in Bad Faith**.

If a party fails to comply with the requirements of this rule or with applicable orders entered by the Court related to motions or proceedings on summary judgment, or should it appear that affidavits are presented in bad faith or for purposes of delay, the Court may continue the hearing and, with or without further hearing, may impose costs, attorney's fees and sanctions against a party, the party's attorney, or both

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Related Authority:
Fed. R. Bankr. P. 7056
Fed.R.Civ.P.56

Advisory Committee Notes:

If discovery responses are to be used in summary judgment proceedings, and if an order has not previously been entered allowing the filing of such discovery, *see* LBR 7005.1, the pertinent portions of discovery responses should be attached to appropriate affidavits or a motion under LBR 7005.1 should be filed.

LOCAL BANKRUPTCY RULE 7067.1
DEPOSITS (REGISTRY FUND)

(a) Whenever a party seeks an order for money to be deposited by the clerk in an interest bearing account, the party shall prepare a form of order in accord with the following.

(b) The following form of standard order shall be used for the deposit of registry funds into interest bearing accounts or the investment of such funds in an interest-bearing instrument:

> IT IS ORDERED that the clerk invest the amount of $_____ in an automatically renewable (type of account or instrument, i.e., time certificate, treasury bill, passbook), in the name of the clerk, U.S. District Court, at (name of bank, savings and loan, brokerage house, etc.), said funds to remain invested pending further order of the court.
>
> IT IS FURTHER ORDERED that the clerk shall be authorized to deduct a fee from the income earned on the investment equal to 10 percent of the income earned while the funds are held in the court's registry fund, regardless of the nature of the case underlying the investment and without further order of the court. The interest payable to the U.S. Courts shall be paid prior to any other distribution of the account. Investments having a maturity date will be assessed the fee at the time the investment instrument matures.
>
> IT IS FURTHER ORDERED that counsel presenting this order personally serve a copy thereof on the clerk or his financial deputy. Absent the aforesaid service, the clerk is hereby relieved of any personal liability relative to compliance with this order.

Related Authority:
28 U.S.C. § 2041-2042
Fed. R. Bankr. P. 7067
Fed. R. Civ. P. 67
District of Idaho General Order No. 70

LOCAL BANKRUPTCY RULE 7067.2
WITHDRAWAL OF A DEPOSIT

(a) Order of the Court

Funds may only be withdrawn upon an order of the court. Such order shall specify the amounts to be paid and the names of any person or company to whom the funds are to be paid.

(b) Application Process

Any person seeking withdrawal of monies, which were provided to the court by LBR 7067.1 and subsequently deposited into an interest-bearing account or instrument as required shall provide, on a separate paper attached to the motion seeking withdrawal of the funds, the social security number or tax identification number of the ultimate recipient of the funds.

Related Authority:
None

LOCAL BANKRUPTCY RULE 8001.1
RULES APPLICABLE TO BANKRUPTCY APPEALS

(a) **Rules Applicable to Bankruptcy Appeals.**

(1) All Appeals. In addition to rules in Part VIII of the Federal Rules of Bankruptcy Procedure and Third Amended District Court General Order No. 38, LBR 8001.1 applies to all appeals from a judgment, order, or decree of a judge.

(2) Bankruptcy Appellate Panel (BAP). For the purposes of these Local Bankruptcy Rules, BAP shall mean the United States Bankruptcy Appellate Panel of the Ninth Circuit.

(b) **Filing of Notice of Appeal.**

An appellant shall file the original notice of appeal and three (3) copies together with the appropriate filing fee with the clerk. In addition, an appellant must file with the clerk sufficient copies of the notice of appeal and addressed stamped envelopes for each party listed in the appeal.

(c) **Form and Time of Consent.**

(1) Consent. The consent of a party to allow an appeal to be heard and determined by the BAP shall be deemed to have been given unless written objection is filed with the clerk of the bankruptcy court either:

(A) by appellant with the notice of appeal or motion for leave to appeal; or

(B) by any other party within thirty (30) days from the date of service of notice of the appeal.

When an appellant files both a notice of appeal and a motion for leave to appeal, consent will be deemed revoked if an objection to BAP determination is filed with respect to either pleading.

(2) Effect of Timely Objection. Upon timely receipt of a written objection to an appeal being heard and determined by the BAP, jurisdiction over the appeal shall be immediately transferred to the district court and the bankruptcy court clerk shall not forward any appeal documents, or any further documents, to the BAP. If the objection is timely, but filed after some of the appeal documents have been transferred to the BAP, the BAP clerk shall promptly return to the bankruptcy court clerk all appellate documents for administration.

(3) Objection Filed with Notice of Motion. If a written objection is filed with the notice of appeal or motion for leave to appeal, the bankruptcy court clerk shall not be required to forward any appeal documents to the BAP.

(d) **Transmittal of Record.**

When the record is complete for purposes of appeal to either the district court or the BAP, a copy thereof will be transmitted, and the original bankruptcy court record shall remain in the office of the bankruptcy court clerk.

Related Authority:
28 U.S.C. § 158
Fed. R. Bankr. P. 8001-8019

Advisory Committee Notes:

The clerk will provide parties to an appeal, and to others upon request, copies of Amended General Order No. 38. In the event an appeal is heard by the BAP (*see* LBR 8001.1(c), the BAP rules shall apply. Pursuant to LBR 1001.1(b) if an appeal is heard by the district court, it may order that the Local Civil Rules shall apply.

LOCAL BANKRUPTCY RULE 9004.1
FORM OF ORDERS

(a) **Separate Documents.**

All orders must be submitted on a document separate from any attendant motion or stipulation.

(b) **Requisite Information.**

All orders submitted must identify with specificity the application, motion, or other pleading to which it corresponds, and the court hearing, if any, from which it resulted. The order must also specifically identify the property or interest with which it deals.

(c) **Format**

All orders shall contain the proper case caption.. There shall be no attorney information (name, firm, address, etc.) above the caption. After the text of the order, the end of the text shall be indicated with the phrase "// end of text //". Below the end of text designation, the submitting attorney shall indicate the name of the attorney(s) submitting the order, the name of the party(s) represented, and any endorsements of the order by other parties.

Related Authority:
Fed. R. Bankr. P. 9004(b), 9013

Advisory Committee Notes:

Motions that contain orders within the same pleading cause filing and case control issues for the clerk. Additionally, some "separate" orders presently submitted are incomplete, misleading, or confusing. Certain orders, such as those regarding lien avoidance, sale, abandonment or relief from stay, must adequately describe the subject property or interest.

Orders must also identify the related application, motion or other pleading. This should be done by reference to the title, date and/or docket number of such pleading.

With the adoption of electronic case filing "ECF", the inclusion of a "header" with the attorney's name, address, telephone number and other information was deemed unnecessary. Such information has already appeared of record on the related motion or stipulation. It was therefore deleted in favor of a notation of submission at the end of the order. There may be other requirements concerning preparation and submission of orders in electronic form, and the ECF Procedures should be consulted.

LOCAL BANKRUPTCY RULE 9010.1
ATTORNEYS

(a) **Eligibility for Admission**.

(1) Any attorney who has been admitted to practice in the Supreme Court of the State of Idaho (including one admitted by reciprocity) is eligible for admission to the bar of this court. Any attorney admitted to practice before the district court for the District of Idaho is admitted to the bar of the bankruptcy court without further process.

(2) Each applicant for admission shall present to the clerk a written application stating the applicant's residence and office address and by what courts the applicant has been admitted to practice and the respective dates of admission to those courts. The application shall be accompanied by a certificate of a member of the bar of this court, stating that such member knows the applicant and can affirm that the applicant is of good moral character.

(3) Each applicant for admission shall pay to the clerk the requisite admission fee.

(b) **Practice in this Court.**

Only a member of the bar of this court may enter appearances for a party, sign stipulations or receive payment, or enter satisfactions of judgments, decrees, or orders.

(c) **Attorneys for the United States**.

An attorney, not admitted under this rule who is employed or retained by and representing the United States Government or any of its officers or agencies, may practice in this court in all actions and proceedings where the attorney is:

(1) A member in good standing of and eligible to practice before the bar of any United States Court, or of the highest court of any state or insular possession of the United States and;

(2) Who is of good moral character.

Attorneys permitted to practice in this court are subject to the jurisdiction of the court with respect to their conduct to the same extent as members of the bar of this court.

(d) **Admission *Pro Hac Vice*.**

(1) Any member in good standing of the bar of any United States Court, or of the highest court of any state or any territory or insular possession of the United States, who is of good moral character and has been retained to appear in this court, and who is not admitted to the bar of this court, may be permitted, after written application and without previous notice, to appear and participate in a particular case and related proceedings.

(2) The application shall be presented to the clerk and shall state under penalty of perjury the attorney's residence and office addresses; what court(s) the attorney has been admitted to practice and the date(s) of admission; that the attorney is in good standing and eligible to practice in said court(s); and that the attorney is not currently suspended or disbarred in any other court(s), nor are any such proceedings currently pending. If any suspension, disbarment, or pending disciplinary proceedings are pending, the applicant shall disclose in sufficient detail those proceedings in the application.

(3) Such applicant shall also designate, in the application to appear, a member of the bar of this court as local counsel. The applicant shall also file with such application the address, telephone number and written consent of such designee. Unless otherwise ordered, the designee shall personally appear with the attorney on all matters heard and tried before the court. Original proceedings may be filed by an attorney before admission *pro hac vice*, but the time for filing of any responsive pleading shall not begin to run until the appearance of associated local counsel is filed with the clerk.

(4) The application shall be accompanied by the requisite admission fee made payable to the clerk, together with a proposed order for the clerk's signature. (The form of *pro hac vice* application and proposed order can be viewed at www.id.uscourts.gov.)

(5) For purposes of this rule, an appearance before this court does not include the preparation, signing, and filing by a creditor of:

(A) a proof of claim, or an amendment, withdrawal, or notice of assignment of such proof of claim,

(B) a stipulation for relief from the automatic stay,

(C) a reaffirmation agreement, or

(D) the filing of a request for service of documents.

(e) **Appearances**.

(1) Only attorneys of this court may make appearances in this court, unless the party appears in propria persona. Whenever a party has appeared by an attorney, the party may not thereafter appear or act on their own behalf in the action, or take any steps therein unless a request for substitution or withdrawal, in accordance with this rule shall first have been made by that party and filed with the clerk. After notice to the attorney by that party, and to any opposing party, the court may, in its discretion, hear a party in open court notwithstanding the party has appeared or is represented by an attorney. When an attorney of record for any reason ceases to act for a party, such party should appoint another attorney or appear in person.

(i) At the discretion of the presiding judge, a legal intern who possesses a limited license issued by the Idaho State Bar may appear before the Bankruptcy Court in the presence of a supervising attorney, who shall be an attorney licensed to practice before this court

(2) Persons representing themselves without an attorney must appear personally for such purpose and may not delegate that duty to any other person. Any person so represented without an attorney is bound by these Local Rules, the Federal Rules of Bankruptcy Procedure, and by the Federal Rules of Civil Procedure. Failure to comply therewith may be grounds for dismissal or judgment by default. In exceptional circumstances, a judge may modify these provisions to serve the ends of justice.

(3) Whenever a corporation, partnership or other entity desires or is required to make an appearance in this court, only an attorney of the bar of this court or an attorney permitted to practice under these rules shall make the appearance.

(4) In all Oregon cases heard before this court, and in all proceedings related thereto, Oregon counsel not previously admitted to the bar of this court under subdivision (a) of this rule may appear for the debtor(s) or a creditor or party in interest without compliance with the requirements of *pro hac vice* admission as set forth in subdivision (d) of this rule.

(f) **Substitutions and Withdrawals**.

(1) When an attorney of record for any person ceases to act for a party, the party shall appear in person or appoint another attorney by:

(A) A written substitution of attorney signed by the party, the attorney ceasing to act, and the newly appointed attorney or;

(B) By a written designation filed in the action and served upon the attorney ceasing to act.

If the attorney is deceased, the designation of a new attorney shall so state. Until the court approves such substitution, the authority of the attorney of record shall continue for all proper purposes.

(2) No attorney of record for a party may withdraw from representation of that party without leave of the court, upon notice to the client, all parties in interest, and notice and hearing. Before an attorney is to be granted leave to withdraw, the attorney shall present to the court a proposed order permitting the attorney to withdraw and directing the party to appoint another attorney to appear, or to appear in person by filing a written notice with the court stating how the party will be represented, within twenty (20) days from the date the court enters the order authorizing withdrawal. After the court has entered such order, the withdrawing attorney shall forthwith and with due diligence, serve copies upon the party and all parties entitled to notice under

the Federal Rule(s) of Procedures or these rules. The order shall provide that the withdrawing attorney shall continue to represent the party until proof of service of the withdrawal order on the party has been filed in the court.

(3) Upon the entry of the order and the filing of proof of service on the party, no further proceedings can be had in the action that will affect the rights of the party represented by the withdrawing attorney for a period of twenty (20) days. If the party fails to appear in the action, either in person or through a newly appointed attorney within such twenty (20) day period, such failure shall be sufficient grounds for the entry of default against such party or dismissal of the action without further notice, which shall be stated in the order.

(4) Anything in this subsection (f) notwithstanding, any incoming debtor's attorney, whether by substitution, by an appearance following an order permitting withdrawal of another attorney or otherwise, shall forthwith give notice of the appearance as attorney of record to all parties in interest and file a proof of service with the court.

(g) **Standards of Professional Responsibility**.

The members of the bar of this court shall adhere to the Rules of Professional Conduct promulgated and adopted by the Supreme Court of the State of Idaho. These provisions, however, shall not be interpreted to be exhaustive of the standards of professional conduct and responsibility. No attorney permitted to practice before this court shall engage in any conduct that degrades or impugns the integrity of the court or in any manner interferes with the administration of justice therein.

(h) **Attorney Discipline**.

(1) Disbarment. When any member of the bar of this court has been disbarred or suspended from the practice of law by any court of competent jurisdiction, he or she shall have thirty (30) days within which to present compelling reason why he or she should not be disbarred or suspended by this court. Failure to present such reasons, or failure to notify this court of disbarment or suspension, shall result in disbarment or suspension from practice before this court.

(2) Discipline. In the event any attorney engages in conduct which may warrant discipline or other sanctions, a judge may, in addition to initiating proceedings for contempt under Fed. R. Bankr. P. 9020 or Title 18 of the United States Code or imposing other appropriate sanctions, refer the matter to the disciplinary body of any court before which the attorney has been admitted to practice.

(i) **Multiple Counsel**.

If more than one attorney represents a party, only one attorney shall examine or cross-examine a single witness and only one attorney shall argue the merits before the court, unless the court otherwise permits.

Related Authority:
Fed. R. Bankr. P. 9010, 9011, 9020
District Court of Idaho General Order Nos. 59 and 132

Advisory Committee Notes:

The provision of (e)(4) is meant to continue current practice under which members of the bar of the District of Oregon may appear in those eastern Oregon bankruptcy cases and proceedings administered by this court through agreement with the U.S. Bankruptcy Court for the District of Oregon. Such counsel need not be admitted to practice *pro hac vice*, but the authority to appear is limited solely to the Oregon case and its related proceedings.

LOCAL BANKRUPTCY RULE 9011.1
FAIRNESS AND CIVILITY

(a) Litigation, inside and outside the courtroom, in the United States District and Bankruptcy Court for the District of Idaho, must be free from prejudice and bias in any form. Fair and equal treatment must be accorded all courtroom participants, whether judges, attorneys, witnesses, litigants, jurors, or court personnel. The duly to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias toward another on the basis of categories such as gender, race, ethnicity, religion, disability, age, or sexual orientation.

(b) Civility in professional conduct is the responsibility of every lawyer, judge, and litigant in the federal system. While lawyers have an obligation to represent clients zealously, incivility to counsel, adverse parties, or other participants in the legal process, undermines the administration of justice and diminishes respect for both the legal process and our system of justice.

(c) The bar, litigants and judiciary, in partnership with each other, have a responsibility to promote civility in the practice of law and the administration of justice. The fundamental principles of civility that will be followed in the Bankruptcy Court for the District of Idaho, both in the written and spoken word, include the following:

(1) Treating each other in a civil, professional, respectful, and courteous manner at all times;

(2) Not engaging in offensive conduct directed towards others or the legal process;

(3) Not bringing the profession into disrepute by making unfounded accusations of impropriety;

(4) Making good faith efforts to resolve by agreement any disputes;

(5) Complying with the discovery rules in a timely and courteous manner, and

(6) Reporting acts of bias or incivility to the Clerk of the Court. The Clerk of the Court will then determine the appropriate judicial officer with whom to discuss the matter.

Related Authority:

District Court of Idaho General Order Nos. 111 and 112

D.ID.L.Cir. R. 83.7

LOCAL BANKRUPTCY RULE 9014.1
WITNESS TESTIMONY AT HEARINGS ON CONTESTED MATTERS

If a party intends to present evidence through witnesses at a hearing on a contested matter, such party shall so indicate on the initial or responsive pleadings or, alternatively, shall so indicate in a separate notice filed with the court and served on opposing parties not later than five (5) days prior to such hearing

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Related Authority:

Fed. R. Bankr. P. 9014(e)

Advisory Committee Notes:

This Local Rule provides a procedure consistent with Fed. R. Bankr.P. 9014(e). Parties are encouraged to alert the calendar clerk about their intention to present witness testimony when the hearing is scheduled or when the response to the notice under this Rule is filed.

LOCAL BANKRUPTCY RULE 9015.1
JURY TRIALS

(a) **Applicability of Certain Federal Rules of Civil Procedure.**

Fed R. Civ. P. 38, 39, and 47 through 51, and Fed R. Civ. P. 81(c) insofar as it applies to jury trials, apply in bankruptcy cases and adversary proceedings, except that a demand made under Fed R. Civ. P. Rule 38(b) shall be filed in accordance with Fed R. Bankr. P. 5005.

(b) **Consent to Have Trial Conducted by Bankruptcy Judge.**

If the right to a jury trial applies, a timely demand has been filed under Fed R. Civ. P. 38(b), and the bankruptcy judge has been specially designated to conduct the jury trial, the 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 no later than ten (10) days after service of the demand.

Related Authority:

None

Advisory Committee Notes:

This rule provides procedures relating to jury trials. This rule is not intended to expand or create any right to trial by jury where such right does not otherwise exist.

LOCAL BANKRUPTCY RULE 9024.1
AMENDMENTS TO JUDGMENTS OR ORDERS

When a party seeks to amend a judgment or order of the court due to clerical mistakes and/or errors arising from oversight or omission, the request shall be made by filing a motion with the court. The motion must set forth the proposed changes, either in the motion or by attaching a red-lined copy of the judgment or order as an exhibit to the motion. A separate order containing the proposed changes shall be submitted in accord with LBR 9004.1.

Related Authority:

Fed. R. Bankr. P. 9013, 9024; Fed. R. Civ. P. 60(a)

Advisory Committee Notes:

Parties sometimes submit a proposed order that would amend a prior order without filing a motion or otherwise alerting the court as to the errors or inaccuracies in the prior order or identifying the need or reason for entering an amended order. The motion required by this rule should clearly identify the prior order (preferably by date and docket number) and specify the proposed changes. This allows the court to examine the proposed modification(s) and evaluate the propriety of entering an amended order. Generally, no hearing would be required if the motion identifies only clerical errors and parties in interest have received notice, or if affected parties have submitted a stipulation agreeing to the proposed changes or have endorsed the proposed order. However, when an objection is anticipated or filed, the hearing procedures of LBR 2002.2 should be followed.

Note that this rule is directed to motions made under Fed. R. Civ. P. 60(a), made applicable by Fed. R. Bankr. P. 9024. Requests for relief under the provisions of Fed. R. Civ. P. 60(b) are addressed under general motion practice.

LOCAL BANKRUPTCY RULE 9034.1
TRANSMITTAL OF DOCUMENTS TO UNITED STATES TRUSTEE

(a) **Transmittal of Documents**.

The following documents shall be transmitted to the office of the United States Trustee:

(1) Cases. Any document filed in cases under chapter 7, 9, 11, and 12 of the Bankruptcy Code, *except* proofs of claim, and *except* petitions and accompanying materials that are included in the initial filing with the bankruptcy court.

(A) Copies of applications for approval of employment, or for allowance of interim or final compensation of professionals, together with all supporting affidavits, exhibits or other documents, shall be transmitted to the office of the United States Trustee at the time of filing.

(B) Copies of attorney's fees disclosure statements required under Fed R. Bankr. P. 2016(b).

(2) Adversary Proceedings.

(A) Any document filed in any adversary proceeding related to a case under chapter 9 or 11, if such document is required to be filed with the bankruptcy court;

(B) Any document filed in any adversary proceeding objecting to discharge under 11 U.S.C. § 727; or

(C) Any document filed in any adversary proceeding where a bankruptcy trustee is named as a party defendant.

(b) **Manner of Transmittal**.

All such documents which are filed with the bankruptcy court and which must be transmitted in accordance with this rule shall be accompanied by proof of such transmittal to the United States Trustee by ECF Procedures at ustp.region18.bs.ecf@usdoj.gov or by first class mail at the following address:

Office of the U.S. Trustee
Washington Group Central Plaza
720 Park Blvd, Ste 220
Boise, Idaho 83712

(c) **Noncompliance**.

The United States Trustee has exclusive standing to object to noncompliance with any provision of this rule, with the exception of transmittal of those items specifically enumerated in Fed. R. Bankr. P. 9034.

Related Authority:

Fed. R. Bankr. P. 2020, 9034.

APPENDIX I

GUIDELINES REGARDING MOTIONS TO USE CASH COLLATERAL OR TO OBTAIN CREDIT, OR STIPULATIONS REGARDING THE SAME

The following guidelines apply to motions or agreements to use cash collateral or obtain postpetition credit or financing. LBR 4001.1(a)(11), (b)(9) and (c), require that both interim and final motions contain a statement of whether or not the motion proposes to grant, or whether the agreement of the parties includes, any provision contained in subsection (b) of these guidelines, and, if so, that the provision be clearly identified.

(a) **Provisions Normally Approved**.

The court will normally approve, or may require, inclusion of the following provisions:

(1) Withdrawal of consent to use cash collateral or termination of further financing, upon occurrence of a default or conversion to chapter 7;

(1) Securing any postpetition diminution in the value of the secured party's collateral with a lien on postpetition collateral of the same type as the secured party had prepetition;

(3) Reservation of rights under § 507(b), unless that provision also calls for modification pursuant to § 726(b);

(4) Reasonable financial and other appropriate reporting requirements;

(5) Reasonable requirements for proof of insurance;

(6) Reasonable requirements for access to property for inspection and appraisal.

(7) Reasonable budgets and use restrictions and;

(8) Expiration date for the order.

(b) **Other Provisions.**

The following provisions are approved, rarely, if ever, on an interim basis. Approval following final hearing is dependent on adequate notice and cause having been shown. Inclusion of any of these provisions will be scrutinized by the court even in the absence of an objection by a party in interest.

(1) Cross-collateralization clauses that secure prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement.

(2) Provisions or findings of fact that bind the estate or all parties in interest, other than the debtor with respect to the validity, perfection or amount of the secured party's lien or debt.

(3) Provisions or findings of fact that bind the estate or all parties in interest, other than the debtor, with respect to the relative priorities of the secured party's lien and liens held by persons who are not party to the agreement.

(4) Provisions securing new advances or value diminution with a lien on postpetition collateral not the same type that the secured party had prepetition**.**

(5) Provisions that prime the liens and/or security interests of secured creditors who are not parties to the agreement, unless consented to by the affected creditor.

(6) Provisions that waive Bankruptcy Code § 506(c) except to the extent effective only during the period in which the debtor in possession or trustee is authorized to use cash collateral or obtain credit.

(7) Provisions that preclude a future trustee with a duty to care for, preserve, and/or liquidate collateral from recovering the expenses of administration.

(8) Provisions that characterize any postpetition payments as payments of interest, fees, or costs on prepetition obligations.

(9) Provisions that operate specifically or as a practical matter to divest the debtor, or any other party in interest, of any discretion in the formulation of a plan or administration of the estate, or limit access to the court to seek any relief under applicable provisions of law.

(10) Releases of liability for the creditor's prepetition torts, breaches of contract, or lender liability, as well as releases of prepetition or postpetition defenses and/or counterclaims.

(11) Provisions that waive causes of action.

(12) Provisions granting a security interest or lien in causes of action or recoveries arising under the Bankruptcy Code.

(13) Relief from the automatic stay of Bankruptcy Code § 362(a) upon default, conversion to chapter 7, or the appointment of a trustee, without notice.

(14) Provisions that waive the right to move for a court order under Bankruptcy Code § 363(c)(2)(B) or § 364 (c) and (d) authorizing the use of cash collateral in the absence of the secured party's consent.

(15) Provisions that carve out administrative expenses that do not treat all such expenses equally or on a pro rata basis.

(16) Provisions that create an unreasonably short period of limitations for any party in

interest (including a successor trustee) to bring claims or causes of action against the lender or secured creditor.

(17) Provisions that waive the procedural requirements for foreclosure or repossession mandated under applicable non-bankruptcy law.

(18) Provisions applicable in the event of a dispute under the order or agreement that place jurisdiction or venue in another court.

(19) Provisions applicable in the event of a dispute or default under the agreement wherein the debtor waives service of process, the doctrine of forum non conveniens, notice and hearing, or the right to a jury trial.

(20) Findings of fact on matters extraneous to the approval process or without testimony or evidence.

APPENDIX II

MODEL RETENTION AGREEMENT

Rights and responsibilities agreement between
Chapter 13 Debtors and their Attorneys

United States Bankruptcy Court
District of Idaho

Chapter 13 gives debtors important rights, such as the right to keep property that could otherwise be lost through repossession or foreclosure – but Chapter 13 also puts burdens on debtors, such as the burden of making complete and truthful disclosures of their financial situation. It is important for debtors who file a Chapter 13 bankruptcy case to understand their rights and responsibilities in bankruptcy. In this connection, the advice of an attorney is crucial. Debtors are entitled to expect certain services will be performed by their attorneys, but debtors also have responsibilities to their attorneys. In order to assure that debtors and their attorneys understand their rights and responsibilities in the Chapter 13 process, the Bankruptcy Court for the District of Idaho has approved the following agreement, setting out the rights and responsibilities of both debtors in Chapter 13 and their attorneys. By signing this agreement, debtors and their attorney accept these responsibilities.

I. BEFORE THE CASE IS FILED

A. THE DEBTOR AGREES TO:

1. Discuss with the attorney the debtor's objectives in filing the case.

2. Provide the attorney with full, accurate and timely information, financial and otherwise, including properly documented proof of income.

B. THE ATTORNEY AGREES TO:

1. Personally counsel the debtor regarding the advisability of filing either a Chapter 13 or a Chapter 7 case, discuss both procedures (as well as non-bankruptcy options) with the debtor, and answer the debtor's questions.

2. Personally explain to the debtor that the attorney is being engaged to represent the debtor on all matters arising in this case, as required by Local Bankruptcy Rule and explain how and when the attorney's fees and the trustee's fees are determined and paid.

3. Review with the debtor and sign the completed petition, plan, statements, and schedules, as well as all amendments thereto, whether filed with the petition or later.

4. Timely prepare and file the debtor's petition, plan, statements, and schedules.

5. Explain to the debtor how, when, and where to make all necessary payments,

including both payments that must be made directly to creditors and payments that must be made to the Chapter 13 trustee, with particular attention to housing and vehicle payments.

6. Advise the debtor of the need to maintain appropriate insurance.

II. AFTER THE CASE IS FILED

A. THE DEBTOR AGREES TO:

1. Make the required payments to the trustee and to whatever creditors are being paid directly, or, if required payments cannot be made, to notify the attorney immediately.

2. Appear at the meeting of creditors (also called the "§ 341(a) meeting") with recent proof of income, picture identification, and proof of the debtor's social security number, and any other required information.

3. Notify the attorney and the trustee of any change in the debtor's address or telephone number.

4. Inform the attorney of any wage garnishment, levies, liens or repossessions of or on assets that occur or continue after the filing of the case.

5. Contact the attorney immediately if the debtor loses employment, has a significant change in income, or experiences any other significant change in financial situation (such as serious illness, lottery winnings, or an inheritance.)

6. Notify the attorney if the debtor is sued or wishes to file a lawsuit (including divorce.)

7. Provide the attorney and the trustee with copies of income tax returns, and provide the trustee with any refunds received, as required by the Court's Income Tax Order. Inform the attorney if any tax refunds to which the debtor is entitled are seized or not received when due from the IRS, the State of Idaho, or other entities.

8. Contact the attorney before buying, refinancing or selling any property, real or personal, and before entering into any loan agreement.

9. Cooperate with the attorney and the trustee in regard to questions about the allowance or disallowance of claims.

B. THE ATTORNEY AGREES TO:

1. Advise the debtor of the requirement to attend the meeting of creditors, and notify the debtor of the date, time, and place of that meeting.

2. Inform the debtor that the debtor must be punctual and, in the case of a joint filing,

that both spouses must appear at the same meeting.

3. Provide knowledgeable legal representation for the debtor at the § 341(a) meeting of creditors and at any motion hearing, plan confirmation hearing, and/or plan modification hearing.

4. If the attorney finds it necessary for another attorney to appear and attend the § 341(a) meeting or any court hearing, personally explain to the debtor, in advance, the role and identity of the other attorney and provide the other attorney with the file in sufficient time to review it and properly represent the debtor.

5. Ensure timely submission to the trustee of properly documented proof of income for the debtor, including business reports for self-employed debtors.

6. Timely respond to objections to plan confirmation and, where necessary, prepare, file, and serve an amended plan.

7. Timely prepare, file, and serve any necessary amended statements and schedules and any change of address, in accordance with information provided by the debtor.

8. Be available to respond to the debtor's questions throughout the term of the plan.

9. Prepare, file, and serve timely modifications to the plan after confirmation, when necessary, including modifications to suspend, lower, or increase plan payments.

10. Prepare, file, and serve necessary motions to buy or sell property and to incur debt.

11. Evaluate claims which are filed and, where appropriate, object to filed claims.

12. Timely respond to the trustee's motion to dismiss the case, such as for payment default, or unfeasibility, and to motions to increase the payments into the plan.

13. Timely respond to motions for relief from stay.

14. Prepare, file, and serve all appropriate motions to avoid liens, if not included in the plan.

15. Provide any other legal services necessary for the administration of this case before the bankruptcy court.

ALLOWANCE AND PAYMENT OF ATTORNEYS' FEES

Any attorney retained to represent a debtor in a Chapter 13 case is responsible for representing the debtor on all matters arising in the case, unless otherwise ordered by the court. For such services, as set forth above, the attorney will be paid a fixed fee of $_____ (exclusive of court filing fees).

In extraordinary circumstances, the attorney may apply to the court for additional compensation. Any such application must be accompanied by an affidavit of the attorney, and include an itemization of the services rendered, showing the date, the time expended, the identity of the attorney or other person performing the services, the rate(s) charged, and the total amount sought. Such an application must be set for a hearing before the court. The debtor must be served with a copy of the application, affidavit, and notice of hearing, and advised of the right to appear in court to comment on or object to such application. The debtor is hereby informed that, in the event of such a request, fees shall be calculated or claimed at the following rate(s):
_____ .

The attorney may receive some portion of the described fixed fee before the filing of the case. The attorney may not receive payment on the fee directly from the debtor after the filing of the case, but must receive any remaining portion of such fee through the plan. In addition to other disclosures required by the Rules, the attorney shall disclose, in any application for additional fees, any and all fees previously paid by the debtor.

If the debtor disputes the sufficiency or quality of the legal services provided or the amount of the fees charged by the attorney, including this fixed fee, the debtor may file an objection with the court and request a hearing.

If the attorney believes that the debtor is not complying with the debtor's responsibilities under this agreement or is otherwise not engaging in proper conduct, the attorney may apply for an order allowing the attorney to withdraw from the case.

The debtor may discharge the attorney at any time.

/s/_____ Date: _____
Debtor

/s/_____ Date: _____
Joint Debtor (if applicable)

/s/_____ Date: _____
Attorney for Debtor(s)