

## Minor Modifications Made to Local Rules

December 6, 2012

The following modifications have been made to the Local Rules. These modifications were approved by the Local Rules Standing Committee and the Board of Bankruptcy Judges for the Northern District of New York. Modifications are shown in red. Items shown in blue are hyperlinks.

### **RULE 1007 - 1      STATEMENT OF SOCIAL SECURITY NUMBER, PAYMENT ADVICES AND FINANCIAL MANAGEMENT CERTIFICATE**

**(f) Personal Financial Management Certificate.** Every individual debtor in a case filed under chapter 7, chapter 11, or chapter 13 must complete a post-petition instructional course concerning personal financial management as required by Fed. R. Bankr. P. 1007(b)(7).

- 1. Failure to timely file evidence of completion of course .** If a debtor under chapter 7 or 13 fails to file a statement (Official Form 23) or a certificate from an approved provider evidencing completion of a course in financial management as required under Fed. R. Bankr. P. 1007(b)(7) within the time limits prescribed by Fed. R. Bankr. P. 1007( c ), the Clerk may close the case without discharge and shall notify creditors. A motion to reopen the case to obtain a discharge will be subject to the applicable fee.
- 2. Deceased Debtor Excused from Compliance.** If a debtor dies after the filing of the petition and prior to completing the course in financial management, the debtor's attorney may file an ex parte application requesting a waiver of the completion of the course. A redacted version of the death certificate shall be attached as an exhibit to the application with service on the United States trustee and the case trustee.

### **RULE 1007 - 3      NOTICE TO CREDITORS OMITTED FROM OR INCORRECTLY LISTED ON MAILING MATRIX**

~~(a)(5) A proof of claim form, if applicable;~~

**RULE 1009 - 1      AMENDMENT TO A PETITION, LIST, SCHEDULE, STATEMENT, SUMMARY OR MAILING MATRIX**

Comment

Amendments shall be filed in the form prescribed in LBR 9004-1 and in accordance with rules 1007 -1 and 1007-3. [A tutorial on how to comply with this rule is available on the court's website. \[ Hyperlink to tutorial will be placed here\]](#)

**RULE 2016-3      REQUIRED SERVICES TO BE RENDERED BY DEBTOR'S ATTORNEY**

(b)(1)(G) Advise the debtor with respect to any reaffirmation agreement; negotiate, prepare and ~~file~~[oversee the filing of](#) reaffirmation agreements if in the best interest of the debtor; and attend all hearings scheduled on any reaffirmation agreement signed by the debtor;

**RULE 3012-1      VALUATION OF COLLATERAL**

Unless the Court orders otherwise, within fourteen (14) days of a written request by a party in interest, the debtor must make available any item of personalty for appraisal. The appraisal shall be conducted at the debtor's residence [or place of business](#) absent agreement of the parties. It shall be the affirmative duty of the debtor to contact the party in interest requesting the appraisal to arrange for the appraisal or to seek a protective order.

**RULE 3015-1      CHAPTER 13 - PLAN**

(d) **Certification of Compliance with this Rule.** The debtor shall certify [in all cases](#) that proper notice and service in compliance with this Rule by filing, not later than ~~seven (7)~~ [fourteen \(14\) days](#) prior to the confirmation hearing, a [Certification Pursuant to Local Bankruptcy Rule 3015-1\(b\) and \(c\)](#).

**RULE 3015-4      CHAPTERS 12 AND 13 - MODIFICATION TO CONFIRMED PLAN**

(a)(2) Serve the notice of motion on the trustee, the United States trustee, debtor, debtor's attorney, ~~and~~ all creditors, and parties in interest negatively impacted by the proposed modification [of the confirmed plan](#).

**RULE 4004-1            COMPLETION OF PLAN AND ENTRY OF A CHAPTER 12 OR  
CHAPTER 13 DISCHARGE**

- (a) **Trustee's Final Report.** Upon completion of payments under a Chapter 12 or 13 plan, the trustee shall file a report that all payments required under the plan have been made.
- (b) **Debtor's Certifications**
1. **Requirement Prior to Issuance of Discharge.** In a case filed on or after October 17, 2005, within thirty (30) days of the filing of Trustee's Final Report, the debtor shall file a [Chapter 12 Debtor\(s\) Certifications Regarding Domestic Support Obligations and §§ 522\(q\) and 1228](#) or [Chapter 13 Debtor\(s\) Certifications Regarding Domestic Support Obligations and §§ 522\(q\) and 1328](#) under penalties of perjury as part of the necessary basis for the issuance of a discharge. If the certifications are filed prior to the Trustee's Final Report, the filing party will be notified that the filing is premature, and current certifications will need to be refiled after the Trustee's Final Report is filed.
  2. **Request for Waiver of Certifications for Deceased Debtor.** Upon application and submission of a proposed order, the court may consider the waiver of certifications required under LBR 4004-1(b) for a deceased debtor. The application must be supported by a properly redacted death certificate.

**RULE 5005-1            ELECTRONIC FILING**

(a) **Filing.** A list, schedule, statement, proof of claim, complaint, motion, application, objection and other papers (each a "document") must be filed electronically in accordance with the [Administrative Procedures](#), unless otherwise ordered by the court.

(b) **Deficient Documents.** The Clerk may issue to the filer of a document a notice of deficiency that specifies the error and contains instructions on how to correct a filing that does not conform to the [Administrative Procedures](#).

(c) **Signature.** The electronic filing of a document bearing an electronic signature (example: /s/ Jane Smith) constitutes the signature of the filer under [Fed. R. Bankr. P. 9011](#).

(d) **Use of Court's website to file an Electronic Proof of Claim (EPOC).** Any proof of claim filed electronically, using this court's website, shall have the same force and effect as if the individual signed a paper copy of the proof of claim.

**(e) Use of Court's website to submit an Electronic Registration for CM/ECF password.** Any CM/ECF Registration form submitted electronically, using this court's website, shall have the same force and effect as if the individual signed a paper copy of the registration form.

**(d)(f) Filing Fees.** A filing fee is to be paid via the on-line payment program on the same day it is incurred. Failure to pay a filing fee will result in the suspension of the filer's ECF ability to electronically file documents. Said suspension will be lifted once the fee is paid.

**(e)(g) Filing in a Dismissed Case.** Until an order revoking a dismissal order is entered, the only permissible filings in a dismissed case are a required filing by a trustee, an administrative filing by the Clerk and the Bankruptcy Noticing Center, and a motion to vacate or reconsider a dismissal order.

**(f)(h) Filing in a Closed Case.** The only permissible filing in a closed case is a motion to reopen, unless otherwise ordered by the court.

**(g)(l) Violation.** Any filings made in contravention of paragraphs (f)(g) or (g)(h) may be stricken sua sponte by the Court.

## **RULE 5005-2 ELECTRONIC CASE FILING PASSWORDS**

**(4) Non-Attorney (Limited Use) Password.** A creditor who is not represented by an attorney or a claims agent may obtain a limited-use password. The limited-use password may only be used to file a proof of claim, objection to claim, transfer of claim, objection to transfer of claim, request to reclassify a claim, withdrawal of a claim, notice of appearance and request for notices, reaffirmation agreement, and certificate of service. A participant will be issued a limited-use password upon submitting to the Court the appropriate [Participant Registration Form](#). ~~and completing the filings documents correctly in the CM/ECF test database.~~

**(b) Submission of Paper or Non-electronic Registration Form for Obtaining a Password.** A signed original [Attorney Registration Form](#), [Participant Registration Form](#) or [Filing Agent Registration Form](#) shall be mailed or delivered to:  
U.S. Bankruptcy Court, NDNY  
Attn: Director of IT  
James T. Foley Courthouse  
445 Broadway, Suite 330  
Albany, N.Y. 12207

**(c) Submission of an Electronic Registration Form for Obtaining a Password.** Registration for a CM/ECF password can also be completed electronically by accessing the Electronic Registration link on this Court's website.

**(c)(d) Misuse of CM/ECF Account Holder.** No account holder may permit his/her password to be used other than by an authorized employee of his/her firm. A CM/ECF account holder's misuse of a password will result in the suspension of CM/ECF account privileges.

**(d)(e) Misuse of Password by Non-Account Holder.** A non-account holder's misuse of a password is punishable by contempt and the imposition of sanctions.

#### **Comment**

Issuance of a limited-use password under subparagraph (a)(3) of this Rule is not a substitute for admission pro hac vice.

### **RULE 9013-1 MOTION PRACTICE**

**(f) Filing Deadlines.** ~~A pleading or other document electronically filed on the last day for filing must be filed by 4:00 p.m. Eastern Standard Time. Otherwise,~~ An electronic filing is considered timely if received by the Court before midnight on the date set as a deadline, unless the Court or these rules specifically require an earlier filing.

**(h) Chambers Copy.** A paper chambers copy is required for the matters listed below. The chambers copy is to be submitted to the Clerk contemporaneously with the electronic filing of the pleading or other document. The copy must be clearly marked as "ECF CASE – CHAMBERS COPY." The chambers copy need not contain a copy of the original signature. Unless otherwise directed by the Court, copies should be sent via regular mail or hand delivery, not by facsimile. **Parties who fail to provide a chambers copy may be billed for copies.**

#### **(j) Procedure for Requesting Adjournment**

**(1) Albany Chambers.** An adjournment request shall be electronically filed and faxed to Chambers not later than ~~4:00~~ **2:00** p.m. the day prior to the hearing.

#### **Comment**

**The service fee for copies made by Clerk's Office staff is governed by the Bankruptcy Court Miscellaneous Fee Schedule.**

## **RULE 9013-2          MOTION EXHIBITS**

An exhibit and other attachment to a motion that is capable of being electronically imaged (scanned) should be electronically filed. An exhibit and attachment may be summarized and only the relevant excerpts electronically filed. The size of an electronic file should be no larger than ~~2~~ **5 Megabytes (MB)** . An attachment larger than ~~2~~**MB 5 Megabytes (MB)** must be split into separate PDF files, all of which shall be attached to the pleading. Any proposed order submitted as an exhibit shall prominently bear on its face the word "EXHIBIT".