

**UNITED STATES BANKRUPTCY COURT  
FOR THE  
NORTHERN DISTRICT OF NEW YORK**

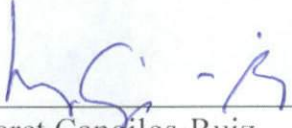
**ADMINISTRATIVE ORDER 17-01  
ADOPTING REVISED LOCAL BANKRUPTCY RULES  
EFFECTIVE February 1, 2017**

The United States Bankruptcy Court for the Northern District of New York has revised its Local Bankruptcy Rules so that they technically conform to Federal Rule of Bankruptcy Procedure 9006(f), amended effective December 1, 2016, and the current practices of the court. The technical revisions to Local Bankruptcy Rules 4002-1, 4002-2, 5005-2, 9013-1(b)(1) and (h)(1)(A) and (2)(B), 9013-3(c)(3) and (7), 9013-5(b)(2) and (c)(2) and 9037-1(c) are set forth on Exhibit A attached hereto.

In accordance with General Order #21 entered on March 7, 2014, by then presiding Chief District Court Judge for the Northern District of New York, The Honorable Gary L. Sharpe, it is hereby

ORDERED that the United States Bankruptcy Court for the Northern District of New York hereby adopts the revised Local Bankruptcy Rules as reflected on Exhibit A, effective February 1, 2017.

Dated: January 23, 2017  
Syracuse, New York

  
\_\_\_\_\_  
Margaret Cangilos-Ruiz  
Chief U.S. Bankruptcy Judge

Local Bankruptcy Rules  
for the  
Northern District of New York



Local Bankruptcy Rules

Effective January 1, 2012

Update Effective ~~July 15, 2016~~ February 1, 2017

RULE 4002-1

CHANGE OF ADDRESS OF DEBTOR AND DEBTOR'S COUNSEL

- (a) If the address of the debtor ~~is~~ changesd at any time prior to closure of the case, the debtor shall immediately ~~provide~~ file with the court a Change of Address Form ~~written notice of such change to the Clerk, the United States trustee, any trustee or committee, and any other parties affected thereby.~~
- (b) If the address of debtor's counsel ~~is~~ changesd at any time prior to closure of the case, debtor's counsel shall immediately send a letter to the Court's ~~Director of ITCM/ECF Administrator~~ that advises of the address change to the below address:-

**Director of ITCM/ECF Administrator**

United States Bankruptcy Court James T. Foley Courthouse  
445 Broadway  
Suite 330  
Albany, NY 12207

**RULE 4002-2**

**CHANGE OF ADDRESS OF PARTY IN INTEREST**

If the address of a party in interest ~~is changed~~s at any time prior to closure of the case, the party in interest may file a Change of Address Form ~~written notice of such change~~ with the Clerk. The notice shall contain the debtor's name, case number, the party's name, the original address given to the Clerk, and the party's complete new address.

- (a) **Password for Electronic Filing.** A Court-issued CM/ECF password is required to file electronically. Attorneys and certain non-attorney participants are eligible to receive CM/ECF passwords. CM/ECF Training for attorneys and staff members is available upon request to [CMECFTraining@nynb.uscourts.gov](mailto:CMECFTraining@nynb.uscourts.gov).

~~(1)~~—**Attorney – Admitted Within District.** An attorney admitted to practice in the Northern District of New York will be issued a password after:

~~(2)~~—

~~§~~submitting a completed Attorney Registration Form to the Court, ~~and~~

~~(A)~~—~~Obtaining a score of at least 80% on the Court's CM/ECF Certification Exam.~~

~~(B)~~—

~~(i)~~—~~CM/ECF Training Classes will be held periodically throughout the year for interested attorneys and staff members.~~

- ~~(3)~~(1) **Attorney Password – Not Admitted in the Out-of District.** An attorney not admitted to practice in the Northern District of New York who is a registered CM/ECF user in another federal court will be issued a limited-use password after:

~~§~~submitting a completed Attorney Registration Form to the Court, ~~and~~

~~Obtaining a score of at least 80% on the Court's CM/ECF Certification Exam.~~

- ~~(4)~~(2) **Filing Agent.** An attorney or trustee may request multiple logins and passwords for legal staff who file as agents on their behalf. When an agent files on behalf of the attorney, the docket text displays the name of the attorney as the filer. A filing agent may obtain a login and password by submitting a completed Filing Agent Registration Form.

- ~~(5)~~(3) **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: Limited Use Registration Form.

- ~~(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:

Director of IT  
United States Bankruptcy Court  
James T. Foley Courthouse  
445 Broadway  
Suite 330  
Albany, NY 12207

- (e)(b) Submission of an ~~Electronic~~ Registration Form for Obtaining a Password.** Registration for a CM/ECF password ~~can also~~ shall be completed electronically by submitting the appropriate registration form accessing the Electronic Registration link on this court's website.
- (d)(c) 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.
- (e)(d) 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.

#### Comm ent

Issuance of a limited-use password under subparagraph (a)(32) of this Rule is not a substitute for admission pro hac vice.

- (a) **Notice.** Unless otherwise ordered by the Court, notice of a motion shall be provided in the time and manner prescribed by the [Federal Rules of Bankruptcy Procedure](#), Local Bankruptcy Rules, and the [Administrative Procedures](#).
- (1) **Identification of Hearing Date, Time, and Location.** The date, time, and location of the hearing shall be included in the body of the notice of motion and above the case number in the caption.
  - (2) **Identification of Relief Sought and Statutory Basis.** The notice of motion shall set forth, in concise, plain terms, the specific relief sought, the party or parties against whom such relief is sought, and the rule or statute upon which the motion or application is predicated. Failure to provide the basis for relief sought is cause for the Court to deny the relief requested.
- (b) **Notice of Electronic Filing.** When a pleading or other document is electronically filed, the CM/ECF system generates a "Notice of Electronic Filing" that is transmitted to the filing party and all registered users of the CM/ECF system having appeared in the case in which the filing is made.
- (1) **Service Upon a Registered User Who Has Appeared in the Case.** Transmission of the Notice of Electronic Filing to a registered user via the CM/ECF system, ~~equates constitutes~~ service of the pleading or other document, ~~by first class mail, postage prepaid.~~
  - (2) **Service Upon a Non-Registered User or a Registered User Who Has Not Appeared in the Case.** A party who is not a registered user of the CM/ECF system must be served with the filed pleading or other document in compliance with the [Federal Rules of Bankruptcy Procedure](#) and these rules.
- (c) **Certificate of Service.** A certificate of service upon both registered and non-registered users of the CM/ECF system is required. The certificate must state the manner in which service or notice was accomplished on each party. The moving party shall file a certificate of service, not later than seven (7) days prior to the return date of the motion. Failure to file a certificate of service may result in the motion not appearing on the Court's calendar. Sample language for a certificate of service can be found in the [Administrative Procedures](#).
- (d) **Supporting Affidavit, Application, and Exhibits.**
- (1) **Service Not Required.** Except as provided in the subparagraphs below, where a motion is made for the relief set forth in subparagraphs (a)(1), (2), (3), and (5) of [LBR 2002-1](#) and the relief sought and the affected parties are clearly and unambiguously stated in the notice of motion, a supporting affidavit, application, or exhibits need not be served on all parties in interest. In such case, the notice of motion must clearly indicate that a copy of the supporting affidavit, application,

or exhibit is available, without charge, from the movant upon request. The movant must provide a contact name and telephone number and/or email address to which such a request may be made.

- (2) **Service Required.** A complete copy of a motion with any supporting affidavit, application, and exhibits shall be served upon the United States trustee, the trustee, any official committee, opposing counsel, and any party that may be directly adversely affected by the granting of the requested relief.
  - (3) **Filing Requirements.** Any motion, supporting affidavit, and application must be filed with the Court. For filing requirements related to exhibits, see [LBR 9013-2](#).
- (e) **Timeliness of Filing and Service of a Motion.** Unless otherwise specified in the Federal Rules of Bankruptcy Procedure (particularly [Rules 2002](#), [3007](#), and [4007](#)), these rules, the [Administrative Procedures](#), or as ordered by the Court, any motion shall be filed and served at least twenty-one (21) days before the return date of the motion.
- (f) **Filing Deadlines.** 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.
- (g) **Answering Papers.**
- (1) **Timeliness of Filing and Service.** Answering papers shall be served and filed so as to be received not later than seven (7) days prior to the return date of the motion. The date, time, and location of the hearing shall be included above the case number in the caption.
  - (2) **Form.** Answering papers shall identify the date, time and location of the hearing above the case number in the caption.
  - (3) **Oral Opposition.** If the Court permits oral opposition to a motion without an answer or response being filed and adjourns the hearing, the answer or response substantiating the oral opposition shall be filed and served within seven (7) days of the original hearing date.
- (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.



(1) **Albany Chambers:**

- (A) Notice of motion, motion, application, and certificate of service, except for chapter 13 trustee's motion to dismiss and to determine/expunge claim ~~and chapter 7 trustee's final meeting notice~~;
- (B) Opposition, response, or any pleading relating to a hearing;
- (C) Opposition to disclosure statement in a chapter 11 case;
- (D) Objection to confirmation of a chapter 11 plan;
- (E) Pretrial statement;
- (F) Memoranda of law and any pleading and other document filed in regard to a submitted matter; and
- (G) All pleadings related to loss mitigation.

(2) **Syracuse and Utica Chambers:**

- (A) Notice of motion, motion, application and certificate of service;
- ~~(B)~~ ~~Chapter 7 final meeting notice~~;
- ~~(C)~~(B) Any pleading filed in an adversary proceeding;
- ~~(D)~~(C) Pretrial statement;
- ~~(E)~~(D) Memoranda of law and any pleading or other document filed in regard to a submitted matter;
- ~~(F)~~(E) Any document regarding an appeal;
- ~~(G)~~(F) Withdrawal of reference;
- ~~(H)~~(G) Any objection pursuant to [Fed. R. Bankr. P. 9033](#) ; and
- ~~(I)~~(H) All pleadings related to loss mitigation.

- (i) **Adjournment Generally.** The Court requires a written request for an adjournment that affirmatively indicates the consent of opposing counsel, states the reasons for the request, and states whether any previous request for an adjournment has been made. Chambers will notify the requesting party only if the request is denied.
- (j) **Procedure for Requesting Adjournment.** An adjournment request shall be made by electronically filing not later than 2:00 p.m. the day prior to the hearing an [Adjournment Request/Withdrawal/Settlement Notification for Motion Related Matters](#) form or an [Adjournment Request/Withdrawal/Settlement Notification for Confirmation Hearings](#) form.
  - (1) **Inability to Obtain Opposing Counsel's Consent.** The inability to affirmatively indicate opposing counsel's consent to an adjournment will require an appearance for the purpose of requesting the adjournment, unless the Court directs otherwise.
- (k) **Withdrawal of Pleading or Other Document Generally.** Any party who seeks to withdraw a motion, pleading or other document shall provide written notification to the Court and all parties who have filed and served related papers.

- (l) **Procedure for Notification of Withdrawal.** Notice of the withdrawal of a motion shall be provided not later than 2:00 p.m. the day prior to the hearing by electronically filing an [Adjournment Request/Withdrawal/Settlement Notification for Motion Related Matters](#) form.
- (m) **Notification of Settlement – Generally.** Where movant and opposing counsel have agreed to the terms of an order, movant shall provide written notification to the Court and all parties who have filed and served responding papers.
- (n) **Procedure for Notification of Settlement.** Notice of the settlement of a motion shall be provided not later than 2:00 p.m. the day prior to the hearing by electronically filing an [Adjournment Request/Withdrawal/Settlement Notification for Motion Related Matters](#) form.
- (o) **Motion to Avoid Judicial Lien Pursuant to § 522(f).** A motion to avoid a judicial lien pursuant to § 522(f) shall be served upon the judgment creditor pursuant to [Fed. R. Bankr. P. 7004](#) and upon the attorney who obtained the judgment on behalf of the creditor.

#### **Comment**

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

**RULE 9013-3**

**DEFAULT MOTION PRACTICE**

- (a) **Default Notice.** Any motion listed in paragraph (c) of this Rule, if pursued on a default basis, shall clearly and conspicuously contain the following paragraph (which may be single-spaced):

**IF YOU INTEND TO OPPOSE THIS MOTION, WRITTEN OPPOSITION MUST BE FILED WITH THE CLERK OF THE COURT AND SERVED ON MOVANT'S COUNSEL AT LEAST SEVEN (7) DAYS PRIOR TO THE RETURN DATE. IF YOU DO NOT FILE AND SERVE WRITTEN OPPOSITION, NO HEARING WILL BE HELD ON THE RETURN DATE AND THE COURT MAY GRANT THE MOTION AS UNOPPOSED.**

- (b) **Timely Opposition Not Filed.** If no opposition is timely filed and served upon movant's counsel as outlined in the above notice, the motion will not appear on the Court's motion calendar on the return date, and the motion will be considered by the Court without the necessity of any appearance by movant's counsel.

(1) **Timely Opposition Filed.** If written opposition to the motion is timely filed and served upon movant's counsel, the motion will appear on the Court's motion calendar on the return date and the parties are required to appear.

(2) **Proposed Order.** A proposed order should not be submitted for signature until after the return date of the motion.

- (c) **Default Motions.** The default motion practice outlined in this Rule applies to the following types of motions:

(1) Abandon Property (§ 554(b));

(2) Allow Administrative Expenses Other Than Professional Fees (§ 503(b));

(3) Allow Administrative Expenses for Professional Fees: (A) in a chapter 13 case which are not in excess of \$1,000.00; provided, however, that said fees are requested for services rendered in connection with a motion brought by default under this Rule and (B) which are in excess of \$1,000.00 provided, however, that said fees are requested solely for services rendered in connection with a loss mitigation;

(4) Approve Settlement of Adversary Proceeding or Contested Matter (Fed. R. Bankr. P. 9019);

- (5) Assume or Reject Executory Contract or Unexpired Lease (§ 365);
- (6) Change Venue (28 U.S.C. § 1412);
- (7) Compel Turnover of Property ~~(§ 542)~~ from the Debtor by the Trustee or Pursuant to § 542(e);
- (8) Convert (§§ 706, 1112(a)) or Dismiss Case (§§ 707, 1112(b), 1208, and 1307);
- (9) Disallow or Modify Claim (§ 502);
- (10) Dismiss for Failure to Pay Filing Fee (Fed. R. Bankr. P. 1006(a));
- (11) Extend Time to Assume or Reject an Unexpired Nonresidential Lease (§ 365(d)(4));
- (12) Extend Time to File Complaint (Fed. R. Bankr. P. 4004(b), 4007(c));
- (13) Extend Time to File Plan and Disclosure Statement – Chapter 11 (§ 1121(d));
- (14) Extend Time to File Plan - Chapter 12 and 13 (§§ 1221 and 1321);
- (15) Extend Time to Pay Filing Fee (Fed. R. Bankr. P. 1006(b));
- (16) Conduct Fed. R. Bankr. P. 2004 Exam;
- (17) Object to Claimed Exemption (Fed. R. Bankr. P. 4003(b));
- (18) Obtain Credit (§ 364(b), (c), and (d));
- (19) Modify Chapter 12 or 13 Plan Post-Confirmation (§§ 1229 and 1329);
- (20) Reopen Case (Fed. R. Bankr. P. 5010 and Local Bankruptcy Rule 5010)
- (21) Terminate or Modify the Automatic Stay and/or Co-Debtor Stay, provided, however, that movant shall include in the proposed order granting a motion for relief from the stay a directive that (i) the case trustee be added as a necessary party to receive notice of the report of sale and surplus money proceedings; and (ii) closure of the case shall not constitute an abandonment of the trustee's interest, if any, in any surplus proceeds. (§ 362(d));
- (22) Use Cash Collateral (§ 363(e));
- (23) Revoke/Reconsider Order of Dismissal (Fed. R. Bankr. P. 9024);

- (24) Waive Debtor's Appearance at Section 341 Meeting of Creditors;
  - (25) Application to Employ a Professional under § 327(e) in a Chapter 7 Case When the Trustee Seeks to Employ an Attorney to Pursue a Claim of the Estate Previously Held by the Debtor (§ 327(e));
  - (26) Confirm Automatic Stay Has Been Terminated (§ 362(j));
  - (27) Extend the Automatic Stay (§ 362(c)(3)(B));
  - (28) Seal a Document (Fed. R. Bankr. P. 9018); and
  - (29) Avoid Judicial Lien and Non-Possessory, Non-Purchase Money Security Interest (§ 522(f)).
- (d) Rules 9013-1 and 9013-2 also apply to default motion practice.
- (e) The default motion practice only applies to motions listed in paragraph (c) of this Rule. Any other motion shall require the appearance of movant's counsel, regardless of whether written opposition is filed.

#### Comment

Essential to the Court granting a default motion is proper service of the default motion evidenced by a timely filed certificate of service. In this regard, particular reference is made to Fed. R. Bankr. P. 3007 and 6007 and to the provisions of Fed. R. Bankr. P. 7004(b)(1)-(10), which are applicable to contested matters pursuant to Fed. R. Bankr. P. 9014.

Certain applications to employ a professional in a chapter 7 case are required to be on notice so that the debtor and debtor's counsel are cognizant that any professional retained by the chapter 7 trustee is retained to represent the bankruptcy estate's interest and not the debtor's interest, despite the fact the professional may have represented the debtor prior to the bankruptcy filing. See LBR 2014-1(e).

See also LBR 4001-1 with respect to a motion to lift the automatic stay.

**RULE 9037-1**

**PRIVACY PROTECTION - REDACTION OF A  
PERSONAL  
IDENTIFIER**

- (a) **Personal Identifier.** Unless otherwise ordered by the Court, in an electronic or paper filing made with the Court that contains an individual's social security number, taxpayer identification number, or birth date, the name of an individual, other than the debtor known to be and identified as a minor, or a financial-account number (individually and collectively referred to as "Personal Identifier"), a party or nonparty making the filing may include only:
- (1) The last four (4) digits of the social security number and taxpayer identification number;
  - (2) The year of the individual's birth;
  - (3) The minor's initials; and
  - (4) The last four digits of the financial account number.
- (b) **Responsibility for Redaction.** As noted in *Fed. R. Bankr. P. 9037*, responsibility for redacting a Personal Identifier in a pleading or other document filed with the Court rests solely with counsel and unrepresented parties filing such pleadings or other documents. The Clerk will not review each pleading or other document for compliance with *Fed. R. Bankr. P. 9037* and this Rule and absent a request, as provided in paragraph (c), will not redact a Personal Identifier, erroneously including in a filing.
- (c) **Request for Redaction of Personal Identifier.** ~~Counsel and parties requesting~~ A request for the redaction of a Personal Identifier should be made by electronically filing an ex parte application for an Order Directing Clerk to (i) Restrict Document(s) from Public Access and (ii) Substitute Redacted Document(s). The redacted document(s) should be filed as an exhibit to the application. The applicant should then upload as an E-Order the proposed order that grants the application. -in paper format which shall include, as an exhibit, a copy of the redacted document and the proposed order granting the application.
- (d) **Sanctions.** The Court may impose sanctions on counsel or any party who files a pleading or other document containing a Personal Identifier in violation of *Fed. R. Bankr. P. 9037*.

**Comment**

On occasion counsel or parties may have the need to file multiple requests for redaction of personal identifiers. Counsel or parties should contact the Clerk's office prior to filing the requests for redaction.

**(a) Ex Parte Order.**

- (1) **Application.** A request for ex parte relief shall be made by affidavit or motion containing a clear and specific showing of cause for both ex parte action as well as the relief requested and whether previous application for similar relief has been made.
- (2) **Submission.** The underlying affidavit or motion shall be filed electronically and the proposed ex parte order shall be uploaded immediately following the filing of the underlying application via the E-Orders menu. The application shall not be uploaded as one PDF document via E-Orders. If the relief requested would be defeated by prior notice, the application may be filed in paper format pursuant to paragraph (d) of this Rule.

**(b) Order Shortening Time.**

- (1) **Application.** A request for an order shortening any specified notice period shall be made by application for an expedited hearing on the motion pursuant to [Fed. R. Bankr. P. 9006\(d\)](#). Such application shall contain a clear and specific showing by affidavit of good and sufficient reasons for shortening the notice period and whether previous application for similar relief has been made. Law office failure does not provide good and sufficient cause.
- (2) **Submission.** The underlying motion shall be filed electronically, and then the application for an expedited hearing shall be filed electronically and linked to the underlying motion. A proposed order shortening time shall be emailed to Chambers in ~~either Word~~ ~~or WordPerfect~~ format and not filed on the docket. The proposed order shortening time should specify the proposed manner of service and provide for the proposed motion hearing date and time. Chambers must be notified before filing an application for an order shortening time.

**(c) Order to Show Cause.**

- (1) **Application.** No order to show cause to bring on a motion will be entered except upon a clear and specific showing by affidavit of good and sufficient reasons why proceeding other than by notice of motion is necessary. Law office failure does not provide good and sufficient cause relief has been made. The papers shall also state whether a previous application for similar relief has been made.
- (2) **Submission.** The underlying affidavit shall be filed electronically. A proposed order to show cause shall be emailed to Chambers in ~~either Word~~ ~~or WordPerfect~~

format and not filed on the docket. Chambers must be notified before filing an order to show cause.

**(d) Prior Notice of Temporary Restraining Order.** Unless the purpose of an order to show cause would be defeated by prior notice, any party seeking an order to show cause which contains temporary restraining relief shall give an opposing party or, if known, counsel for an opposing party, at least 24 hours prior notice, if possible, of the presentation of the order to show cause and the underlying papers, including the date and time of the proposed presentment of said order to show cause to the Court. Proof of notice of presentment shall be filed with the Court.