

## **RULE 1002-1 COMMENCEMENT OF THE CASE**

- (a) Signing of Petition.** The petition must be signed and dated by the debtor contemporaneously with the filing. An electronic signature satisfies the requirement that petitions, verifications, resolutions, declarations, etc. be signed. An electronic signature is considered an original signature upon the filed documents for all purposes under the Bankruptcy Code, relevant federal and state statutes, and applicable federal rules.
- (b) Authority for Non-Individual to File.** A voluntary petition filed by a non-individual, including a corporation, LLC, partnership or LLP, shall be accompanied by a copy of the appropriate document, duly attested to, authorizing such filing.
- (c) Noncompliance.** The failure to comply with the requirements of this Rule and the Federal Rules of Bankruptcy Procedure may subject the case to dismissal.

### **Comment**

Although [Fed. R. Bankr. P. 5005\(a\)\(1\)](#) requires the Clerk to accept papers for filing that are not in proper form, paragraph (c) of this Rule makes clear that the Court may take appropriate action to enforce this Rule.

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~~(b) **Where to File.**~~

~~(1) **Except as set forth below, a petition, motion, pleading, memorandum of law, or other document required to be in writing must be filed electronically or in the Clerk's office where the assigned judge sits.**~~

~~(2) **An attorney may use public scanners and computers located at the Public Intake Counter. An unrepresented individual may file all papers and pleadings in paper format in any Clerk's office.**~~

(b) **Authority for Non-Individual to File.** A voluntary petition filed by a non-individual, including a corporation, LLC, partnership or LLP, shall be accompanied by a copy of the appropriate document, duly attested to, authorizing such filing.

~~(d) **Deficient Petitions and Papers.** The Clerk may issue a notice specifying filing deficiencies to the filer of the document.~~

(c) **Noncompliance.** The failure to comply with the requirements of this Rule and the Federal Rules of Bankruptcy Procedure may subject the case to dismissal.

### Comment

Although [Fed. R. Bankr. P. 5005\(a\)\(1\)](#) requires the Clerk to accept papers for filing that are not in proper form, paragraph (c) of this Rule makes clear that the Court may take appropriate action to enforce this Rule.

**RULE 2002-1 NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES**

- (a) **Notice.** Notice of the following actions shall be given by the proponent thereof, other than the United States trustee, to all creditors and parties in interest:
- (1) A proposed use, sale, or lease of property other than in the ordinary course of business;
  - (2) The hearing on approval of a compromise or settlement of a controversy;
  - (3) In chapter 7, 11, and 12 cases, the hearing on the dismissal or conversion of the case to another chapter;
  - (4) The time fixed to accept or reject a proposed modification of a plan;
  - (5) Except as limited by paragraph (b), a hearing on all applications for compensation or reimbursement of expenses from the estate totaling in excess of \$1,000.00;
  - (6) The time fixed for filing objections and the hearing to consider approval of a disclosure statement or, under § 1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary;
  - (7) The time fixed for filing objections and the hearing to consider confirmation of a plan under chapter 9, 11 or 12;
  - (8) The notice of entry of an order confirming a plan under chapter 9, 11 or 12; and
  - (9) In a chapter 7 case, the notice of the trustee's final report.
- (b) **Limited Notice to Creditors Whose Claims Are Filed.** Notice of the matters enumerated in paragraph (a) above need not be given in accordance with Fed. R. Bankr. P. 2002(a) and may be limited as provided in Fed. R. Bankr. P. 2002(h)(1) and (2) to the debtor; the trustee; all indenture trustees; creditors that hold claims for which proofs of claim have been filed; and creditors, if any, that are still permitted to file claims because an extension was granted under Rule 3002(c)(1) or (c)(2):
- (1) In a voluntary chapter 7 case, chapter 12 case, or chapter 13 case, after 70 days following the order for relief under that chapter or the date of the order converting the case to chapter 12 or chapter 13, or
  - (2) In an involuntary chapter 7 case, after 90 days following the order for relief under that chapter,
- (c) **Limited Notice to Committees.** Where an official creditors' committee has been appointed and as permitted by Fed. R. Bankr. P. 2002(i), required notice of hearings on the actions described below may be limited to such a committee or its authorized agent, the United States trustee, and to any creditor and equity security holder who files with the Court a request that all notices be mailed to them:

- (A) Approval of a compromise or settlement; and
  - (B) Application for compensation or reimbursement of expenses from the estate totaling less than \$25,000.00.
- (d) **Certificate of Service.** A certificate of service conforming to [LBR 9013-1\(c\)](#) shall be filed within seven (7) days of effecting service and not later than seven (7) days prior to the return date of the hearing. For the purpose of preparing address labels, a copy of the updated matrix can be obtained from PACER or upon request from the Clerk.
- (e) **Notice to Committees.** Except as the Court may otherwise designate, pursuant to [Fed. R. Bankr. P. 9007](#), service of notice upon a committee may be made by serving the committee chairperson, the appointed attorney for the committee, if any and other authorized agent. Upon application by a party in interest, the Court may designate additional entities to which notice shall be given.
- (f) **Return Address on Court Generated Notices.** The Clerk shall place the name and address of the debtor's attorney of record, or that of the pro se debtor, as the case may be, as the return address on all notices sent out by the Court to all creditors and other parties in interest.
- (g) **Returned Mail, Duty to Re-Notice, and File Certificate of Service.** If a notice referred to in paragraph (e) is returned as undeliverable, debtor's counsel or the pro se debtor shall promptly send out the notice to any corrected address noted thereon. A certificate of service conforming to [LBR 9013-1\(c\)](#) shall be filed within seven (7) days of effecting service and not later than seven (7) days prior to the return date of a hearing.

#### **Comment**

The proponent of a notice under subparagraphs (a)(1), (2), (3), or (5) should consult [LBR 9013-1\(d\)](#) for the content of the notice.

**RULE 2002-1 NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES**

(a) ~~Notice to All Creditors.~~ Except as provided in Fed. R. Bankr. P. 2002(h)(1) and (2), notice Notice of the following actions shall be given by the proponent thereof, other than the United States trustee, to all creditors and parties in interest:

- (1) A proposed use, sale, or lease of property other than in the ordinary course of business;
- (2) The hearing on approval of a compromise or settlement of a controversy;
- (3) In chapter 7, 11, and 12 cases, the hearing on the dismissal or conversion of the case to another chapter;
- (4) The time fixed to accept or reject a proposed modification of a plan;
- (5) Except as limited by paragraph (b), a hearing on all applications for compensation or reimbursement of expenses from the estate totaling in excess of \$1,000.00;
- (6) The time fixed for filing objections and the hearing to consider approval of a disclosure statement or, under § 1125(f), to make a final determination whether the plan provides adequate information so that a separate disclosure statement is not necessary;
- (7) The time fixed for filing objections and the hearing to consider confirmation of a plan under chapter 9, 11 or 12;
- (8) The notice of entry of an order confirming a plan under chapter 9, 11 or 12; and
- (9) In a chapter 7 case, the notice of the trustee's final report.

(b) Limited Notice to Creditors Whose Claims Are Filed. Notice of the matters enumerated in paragraph (a) above need not be given in accordance with Fed. R. Bankr. P. 2002(a) and may be limited as provided in Fed. R. Bankr. P. 2002(h)(1) and (2) to the debtor; the trustee; all indenture trustees; creditors that hold claims for which proofs of claim have been filed; and creditors, if any, that are still permitted to file claims because an extension was granted under Rule 3002(c)(1) or (c)(2):

- (1) In a voluntary chapter 7 case, chapter 12 case, or chapter 13 case, after 70 days following the order for relief under that chapter or the date of the order converting the case to chapter 12 or chapter 13, or
- (2) In an involuntary chapter 7 case, after 90 days following the order for relief under that chapter,

~~(b)~~(c) Limited Notice to Committees. Where an official creditors' committee has been appointed and as permitted by Fed. R. Bankr. P. 2002(i), required notice of hearings on the actions described below may be limited to such a committee or its authorized agent, the United

States trustee, and to any creditor and equity security holder who files with the Court a request that all notices be mailed to them:

- (A) Approval of a compromise or settlement; and
- (B) Application for compensation or reimbursement of expenses from the estate totaling less than \$25,000.00.

**(e)(d) Certificate of Service.** A certificate of service conforming to [LBR 9013-1\(c\)](#) shall be filed within seven (7) days of effecting service and not later than seven (7) days prior to the return date of the hearing. For the purpose of preparing address labels, a copy of the updated matrix can be obtained from PACER or upon request from the Clerk.

**(d)(e) Notice to Committees.** Except as the Court may otherwise designate, pursuant to [Fed. R. Bankr. P. 9007](#), service of notice upon a committee may be made by serving the committee chairperson, the appointed attorney for the committee, if any and other authorized agent. Upon application by a party in interest, the Court may designate additional entities to which notice shall be given.

**(e)(f) Return Address on Court Generated Notices.** The Clerk shall place the name and address of the debtor's attorney of record, or that of the pro se debtor, as the case may be, as the return address on all notices sent out by the Court to all creditors and other parties in interest.

**(f)(g) Returned Mail, Duty to Re-Notice, and File Certificate of Service.** If a notice referred to in paragraph (e) is returned as undeliverable, debtor's counsel or the pro se debtor shall promptly send out the notice to any corrected address noted thereon. A certificate of service conforming to [LBR 9013-1\(c\)](#) shall be filed within seven (7) days of effecting service and not later than seven (7) days prior to the return date of a hearing.

### Comment

~~This Rule is intended to facilitate the service of papers.~~—The proponent of a notice under subparagraphs (a)(1), (2), (3), or (5) should consult [LBR 9013-1\(d\)](#) for the content of the notice.

**RULE 2014-2      ADMISSION TO PRACTICE/DESIGNATION FOR SERVICE**

- (a) **Attorney Admission.** An attorney who is admitted to practice before the District Court of the Northern District of New York, unless otherwise restricted, is also admitted to practice before this Court. See [N.D.N.Y. Local Rule 83.1](#) for information on admission to the District Court of the Northern District of New York.
- (b) **Pro Hac Vice Admission.** A member in good standing of the bar of any state or of any United States District Court may be permitted to practice on motion in this Court for a limited purpose only in a particular case, adversary proceeding, contested matter, or action.
- (1) **Motion.** An attorney seeking admission pro hac vice shall file, in the Clerk's Office in paper format, a Motion for Limited Admission – Pro Hac Vice along with a proposed order, both of which must include the case and/or adversary proceeding caption for the particular matter for which admission is sought. The Motion shall be supported by the following:
- (A) **Sworn Statement of Applicant Attorney.** The sworn statement shall include:
- (i) applicant's place of residence and office address;
  - (ii) the date(s) when and court(s) where previously admitted;
  - (iii) whether the applicant has ever been held in contempt of court, censured, suspended or disbarred by any court and, if so, the facts and circumstances connected therewith;
  - (iv) whether the applicant has ever been convicted of a crime, either a felony or misdemeanor, and, if so, the facts and circumstances connected therewith; and
  - (v) that the applicant is familiar with the provisions of the Judicial Code (Title 28 U.S.C.), which pertain to the jurisdiction of, and practice in, the United States Bankruptcy Courts; the Bankruptcy Code (title 11 U.S.C.); the Federal Rules of Bankruptcy Procedure; the Local Rules of the Bankruptcy Court for the Northern District of New York; and the New York Rules of Professional Conduct. The applicant shall further affirm faithful adherence to these rules and responsibilities.
- (B) **Certificate of Good Standing.** An original Certificate of Good Standing, as evidence of admission to the bar of the highest court of any state or from a United States District Court, dated within six (6) months of the date of the motion.
- (C) **Required Fee.** The filing fee for the Motion for Limited Admission – Pro Hac Vice is \$100 and must be paid by check made payable to the **District Court Clerk** and be delivered to the Bankruptcy Court along with the Motion.

- (D) **Waiver of Fee.** The admission fee shall be waived for all attorneys in the full-time employ of the United States Government pursuant to the [N.D.N.Y. Local Rule 83.1\(a\)\(5\)](#).
- (2) **Electronic Filing Privileges.** Upon entry of an order granting the Motion for Limited Admission – Pro Hac Vice, the attorney admitted pro hac vice must immediately submit a request to PACER for filing access to the NYNB at <https://pacer.uscourts.gov/>.
- (3) **Notice of Appearance.** Upon entry of an order granting the Motion for Limited Admission – Pro Hac Vice, the attorney admitted pro hac vice must immediately file a notice of appearance in the matter for which the attorney was admitted.
- (c) **Limited Admission as Student Practitioner.** A law student approved as a “Student Practitioner” may, under the supervision of an attorney and with prior Court approval, appear on behalf of a debtor who has completed and signed the [Student Practice Authorization Form](#). The completed [Student Practice Authorization Form](#) shall be filed in the case pending before the Court.
- (1) **Attorney Supervision.** The attorney who supervises a student shall:
- (A) Be a member in good standing of the bar of the United States District Court for the Northern District of New York;
- (B) Assume personal professional responsibility for the student’s work;
- (C) Assist the student to the extent necessary;
- (D) Appear with the student in all proceedings before the Court unless his or her presence is waived by the Court; and
- (E) Consent to supervise the student on the [Student Practice Authorization Form](#).
- (2) **Student Eligibility.** In order to appear, the student shall:
- (A) Be enrolled in a law school approved by the American Bar Association;
- (B) Have completed legal studies amounting to at least two (2) semesters, or the equivalent;
- (C) Be recommended by either the dean or a faculty member of his or her law school as a Student Practitioner, which recommendation may be withdrawn by the recommender at any time by mailing a notice to the Clerk;
- (D) Neither ask for, nor receive any compensation or remuneration of any kind for the services performed from the person on whose behalf they are rendered, but this shall not prevent an attorney, legal aid bureau, law school, public defender agency, a State, or the United States from paying compensation to the eligible law student, nor shall it prevent any agency



from making proper charges for its services. Neither the student, nor anyone on the student's behalf, shall seek recovery of attorneys' fees from an adverse party for the services rendered by the student as a student practitioner, except for the successful prosecution of a willful violation of the automatic stay or of the discharge injunction pursuant to §§ 362 and 524 and for the defense of an § 523(a)(2) nondischargeability action;

- (E) Certify in writing that the student is familiar with the federal procedural and evidentiary rules as well as these rules; and
- (F) Complete and file a [Student Practice Authorization Form](#) with the Court together with a proposed order for appearance as a Student Practitioner in the bankruptcy case and/or adversary proceeding in which the client consent has been obtained.

**(3) Permitted Student Services.** The Student Practitioner may:

- (A) Appear as counsel in Court or at other proceedings when consent of the client and the supervising attorney has been filed and when the Court has approved the student's request to appear in the particular case;
- (B) Prepare and sign affidavits, motions, petition, answers, objections, replies, memoranda and legal briefs, and other documents (collectively, "Documents") in connection with any matter in which the student has met the conditions of subparagraph (A) above. The Documents must also be signed by the supervising attorney with the original maintained in the case file.

**(4) Term of Student Admission.** A Student Practitioner whose application has been approved may continue to appear in a particular case as a Student Practitioner until the student has graduated from law school and is formally admitted to the bar or until termination by the Court. The Court sua sponte may terminate a Student Practitioner's right to appear at any time without notice of hearing and without showing of cause.

**(d) Designation for Service.** A Court may require an attorney who does not have an office in the Northern District of New York to designate a resident member of the bar of the Northern District of New York for service of process or papers.

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(b) **Pro Hac Vice Admission.** A member in good standing of the bar of any state or of any United States District Court ~~not otherwise admitted to practice before the Court,~~ may be permitted to practice on motion in this Court for a limited purpose only in a particular case, adversary proceeding, contested matter, or action. ~~An attorney seeking admission pro hac vice shall provide an original certificate of good standing, as evidence of admission to the bar of the highest court of any state or of any United States District Court and shall pay the required admission fee. The application, original certificate of good standing, proposed order and a check made payable to the District Court Clerk shall be delivered in paper format to the Bankruptcy Court Clerk.~~

(1) **Motion.** An attorney seeking admission pro hac vice shall file, in the Clerk's Office in paper format, a Motion for Limited Admission – Pro Hac Vice along with a proposed order, both of which must include the case and/or adversary proceeding caption for the particular matter for which admission is sought. The Motion shall be supported by the following:

(A) **Sworn Statement of Applicant Attorney.** The sworn statement shall include:

(i) applicant's place of residence and office address;

(ii) the date(s) when and court(s) where previously admitted;

(iii) whether the applicant has ever been held in contempt of court, censured, suspended or disbarred by any court and, if so, the facts and circumstances connected therewith;

(iv) whether the applicant has ever been convicted of a crime, either a felony or misdemeanor, and, if so, the facts and circumstances connected therewith; and

(v) that the applicant is familiar with the provisions of the Judicial Code (Title 28 U.S.C.), which pertain to the jurisdiction of, and practice in, the United States Bankruptcy Courts; the Bankruptcy Code (title 11 U.S.C.); the Federal Rules of Bankruptcy Procedure; the Local Rules of the Bankruptcy Court for the Northern District of New York; and the New York Rules of Professional Conduct. The applicant shall further affirm faithful adherence to these rules and responsibilities.

(B) **Certificate of Good Standing.** An original Certificate of Good Standing, as evidence of admission to the bar of the highest court of any state or from a United States District Court, dated within six (6) months of the date of the motion.

~~(A)~~(C) **Required Fee.** The filing fee for the Motion for Limited Admission – Pro Hac Vice is \$100 and must be paid by check made payable to the District Court Clerk and be delivered to the Bankruptcy Court along with the Motion.

~~(D)~~ **Waiver of Fee.** The admission fee shall be waived for all attorneys in the full-time employ of the United States Government pursuant to the [District Court Local Rule 83.1\(a\)\(5\)](#).

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~~(2)~~(3) **Notice of Appearance.** Upon entry of an order granting the Motion for Limited Admission – Pro Hac Vice, the attorney admitted pro hac vice must immediately file a notice of appearance in the matter for which the attorney was admitted.

~~(b)~~(c) **Limited Admission as Student Practitioner.** A law student approved as a “Student Practitioner” may, under the supervision of an attorney and with prior Court approval, appear on behalf of a debtor who has completed and signed the [Student Practice Authorization Form](#). The completed [Student Practice Authorization Form](#) shall be filed in the case pending before the Court.

(1) **Attorney Supervision.** The attorney who supervises a student shall:

- (A) Be a member in good standing of the bar of the United States District Court for the Northern District of New York;
- (B) Assume personal professional responsibility for the student’s work;
- (C) Assist the student to the extent necessary;
- (D) Appear with the student in all proceedings before the Court unless his or her presence is waived by the Court; and
- (E) Consent to supervise the student on the [Student Practice Authorization Form](#).

(2) **Student Eligibility.** In order to appear, the student shall:

- (A) Be enrolled in a law school approved by the American Bar Association;
- (B) Have completed legal studies amounting to at least two (2) semesters, or the equivalent;
- (C) Be recommended by either the dean or a faculty member of his or her law school as a Student Practitioner, which recommendation may be withdrawn by the recommender at any time by mailing a notice to the Clerk;

- (D) Neither ask for, nor receive any compensation or remuneration of any kind for the services performed from the person on whose behalf they are rendered, but this shall not prevent an attorney, legal aid bureau, law school, public defender agency, a State, or the United States from paying compensation to the eligible law student, nor shall it prevent any agency from making proper charges for its services. Neither the student, nor anyone on the student's behalf, shall seek recovery of attorneys' fees from an adverse party for the services rendered by the student as a student practitioner, except for the successful prosecution of a willful violation of the automatic stay or of the discharge injunction pursuant to [§§ 362](#) and [524](#) and for the defense of an [§ 523\(a\)\(2\)](#) nondischargeability action;
  - (E) Certify in writing that the student is familiar with the federal procedural and evidentiary rules as well as these rules; and
  - (F) Complete and file a [Student Practice Authorization Form](#) with the Court together with a proposed order for appearance as a Student Practitioner in the bankruptcy case and/or adversary proceeding in which the client consent has been obtained.
- (3) **Permitted Student Services.** The Student Practitioner may:
- (A) Appear as counsel in Court or at other proceedings when consent of the client and the supervising attorney has been filed and when the Court has approved the student's request to appear in the particular case;
  - (B) Prepare and sign affidavits, motions, petition, answers, objections, replies, memoranda and legal briefs, and other documents (collectively, "Documents") in connection with any matter in which the student has met the conditions of subparagraph (A) above. The Documents must also be signed by the supervising attorney with the original maintained in the case file.
- (4) **Term of Student Admission.** A Student Practitioner whose application has been approved may continue to appear in a particular case as a Student Practitioner until the student has graduated from law school and is formally admitted to the bar or until termination by the Court. The Court sua sponte may terminate a Student Practitioner's right to appear at any time without notice of hearing and without showing of cause.

~~(e)~~[\(d\)](#) **Designation for Service.** A Court may require an attorney who does not have an office in the Northern District of New York to designate a resident member of the bar of the Northern District of New York for service of process or papers.

**RULE 2016-2      COMPENSATION OF PROFESSIONALS IN CHAPTER 13 CASE**

- (a) **Compensation.** In a chapter 13 case, the plan shall set forth the “Base Fee,” as defined in Administrative Order 22-03, to be paid by or on behalf of the debtor in connection with the case including any amount paid pre-petition as a retainer and the amount to be paid through the plan. The trustee shall review the attorney’s fee charged in each case and object to confirmation if the fee sought is unreasonable. Confirmation of the plan shall constitute Court approval of the attorney’s fee. The Court may set a hearing sua sponte to review the requested attorney’s fee, which may be scheduled at the same time as the confirmation hearing.
- (b) **Notice to All Parties in Interest.** Notwithstanding any other provision of this Rule, if the compensation for debtor’s counsel is an amount greater than one-half of the amount to be funded through the plan, the compensation is subject to further review and approval after notice and a hearing as provided for under [Fed. R. Bankr. P.2002\(a\)\(6\)](#).
- (c) **Fed. R. Bankr. P. 2016(b) Statement.** In addition to the disclosure requirements of [Fed. R. Bankr. P. 2016\(b\)](#), if counsel has represented the debtor in a prior bankruptcy case commenced within three (3) years of the current case, the original 2016(b) statement shall disclose the date of the prior filing(s) and the attorney’s fees paid in connection with such prior filing(s).
- (d) **Application for Fees in Excess of Those Approved Under the Plan.** Any additional attorney’s fees and expenses sought to be charged beyond those disclosed in the initial statement filed pursuant to [Fed. R. Bankr. P. 2016\(b\)](#) and/or approved by the confirmation order may be charged to the debtor only upon Court order, based upon prior application after notice and a hearing. The application shall detail the specific services for which additional compensation is sought and include:
- fees disclosed by applicant in the 2016(b) Statement and/or approved by confirmation order;
  - allowed fees paid applicant through date of the application; and
  - a statement of whether an award of the requested fee will or will not result in the total compensation being paid to the debtor’s attorney being greater than one-half of the amount to be funded through the plan.

Additional attorney’s fees and expenses approved by the Court shall be paid through the plan, except as otherwise ordered.

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

- (a) Debtor Representation.** Unless otherwise ordered by the Court, an attorney representing a debtor shall be the attorney of record and represent the debtor until the case is administratively closed.
- (b) Required Attorney Duties in a Chapter 7, Chapter 12 and Chapter 13 Case.**

  - (1) Retainer Agreement.** Absent special circumstances approved by the Court, an attorney representing the debtor in a chapter 7, chapter 12 or chapter 13 case shall have a written retainer agreement that sets forth the fee arrangement and comprehensive services to be performed for the debtor in which the attorney agrees to:

    - (A)** Analyze the client's financial situation, and advise and assist the client in determining whether to file a petition under the Bankruptcy Code;
    - (B)** Prepare and file the petition, all required lists, schedules and statements, as well as any amendments that may be necessary or appropriate;
    - (C)** File the certificate required from the individual debtor from an approved nonprofit budget and credit counseling agency for pre-petition credit counseling;
    - (D)** File the debtor's payment advices together with the "Payment Advice Form" ([Payment Advice Form](#));
    - (E)** Appear and represent the debtor at any scheduled meeting of creditors under [§ 341](#), unless otherwise ordered by the Court;
    - (F)** Amend any list, schedule, statement, and/or other document required to be filed with the petition as may be necessary or appropriate;
    - (G)** Advise the debtor with respect to any reaffirmation agreement; negotiate, prepare and 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;
    - (H)** Prepare and file any motion as may be necessary or appropriate including but not limited to a motion to avoid a lien on exempt property, to obtain credit, to sell or abandon property, and to assume or reject a lease;
    - (I)** Remove involuntary wage garnishments and/or voluntary wage assignments, as appropriate;
    - (J)** Compile and forward to the trustee and the United States trustee any documents and information requested;

- (K) Consult with the debtor and if there is a valid defense or explanation, respond to a motion for relief from the automatic stay;
  - (L) File the debtor's certification of completion of instructional course concerning financial management ([Official Form 423](#)); and
  - (M) Disclose any agreement and fee arrangement regarding the potential retention of co-counsel.
- (2) **Chapter 7 Case.** In addition to the services identified in subparagraph (b)(1) above, and as may be needed or warranted by the facts of the case, the attorney retained in a chapter 7 case shall prepare and file a motion under [§ 722](#) to redeem exempt or abandoned personal property.
- (3) **Chapter 12 and Chapter 13 Cases.** In addition to the duties identified in subparagraph (b)(1) above, and as may be needed or warranted by the facts of the case, the attorney retained in a chapter 12 or chapter 13 case shall:
- (A) Attend the original and any adjourned confirmation hearing and address all objections to confirmation;
  - (B) Negotiate the value of secured claims or, as necessary, represent the debtor at valuation hearings in connection with the confirmation hearing;
  - (C) Prepare and file the necessary pleadings to partially or wholly avoid mortgage liens against the debtor's real property;
  - (D) Within the Local Form Plan in a chapter 13 case or by separate motion seek to avoid a judicial lien or nonpossessory, nonpurchase-money security interest as appropriate;
  - (E) Prepare necessary pre-confirmation amendments and post-confirmation modifications to the plan;
  - (F) Timely review all filed proofs of claim, and object to and file proofs of claim as appropriate;
  - (G) Oversee the filing of all operating reports in a chapter 12 case and any required in a chapter 13 case;
  - (H) Represent the debtor in connection with motions for dismissal or conversion;
  - (I) File the appropriate certification required under [Rule 4004-1\(b\)](#) to permit the inference that the debtor is entitled to a discharge; and
  - (J) Attend any discharge hearing scheduled and address all objections to discharge.
- (4) **Adversary Proceeding.** Debtor's attorney is the attorney of record in any adversary proceeding filed in the case, unless and until:

- (A) there is filed written consent to change attorney signed by debtor(s), the attorney to be relieved, and the substituted attorney; or
- (B) debtor's attorney is substituted by order of the court upon motion; or
- (C) debtor's attorney is permitted to withdraw by order of the court upon motion.



### **Comment**

With reference to subparagraph (b)(3)(F) and the timely review of claims, practitioners are referred to [LBR 3007-1\(c\)](#) for the time by which claim objections are to be filed in chapter 13 cases.

**RULE 2016-2      COMPENSATION OF PROFESSIONALS IN CHAPTER 13 CASE**

- (a) **Compensation.** In a chapter 13 case, the plan shall set forth the “Base Fee,” as defined in Administrative Order 22-03, ~~entire attorney’s fee~~ to be paid by or on behalf of the debtor in connection with the case including any amount paid pre-petition as a retainer and the amount to be paid through the plan. The trustee shall review the attorney’s fee charged in each case and object to confirmation if the fee sought is unreasonable. Confirmation of the ~~chapter 13~~ plan shall constitute Court approval of the attorney’s fee. The Court may set a hearing sua sponte to review the requested attorney’s fee ~~requested~~, which may be scheduled at the same time as the confirmation hearing. ~~By Administrative Order, the Court in each division may set a standard fee chargeable for standard legal services rendered in a chapter 13 case.~~
- (b) **Notice to All Parties in Interest.** Notwithstanding any other provision of this Rule, if the compensation for debtor’s counsel is an amount greater than one-half of the amount to be funded through the ~~chapter 13~~ plan, the compensation is subject to further review and approval after notice and a hearing as provided for under Fed. R. Bankr. P. 2002(a)(6).
- (c) **Fed. R. Bankr. P. 2016(b) Statement.** In addition to the disclosure requirements of Fed. R. Bankr. P. 2016(b), if counsel has represented the debtor in a prior bankruptcy case commenced within three (3) ~~eight (8)~~ years of the current case, the original 2016(b) statement shall disclose the date of the prior filing(s) and the attorney’s fees paid in connection with such prior filing(s).
- (d) **Application for Fees in Excess of Those Approved Under the Plan.** Any additional attorney’s fees and expenses sought to be charged beyond those disclosed in the initial statement filed pursuant to Fed. R. Bankr. P. 2016(b) and/or approved by the confirmation order may be charged to the debtor only upon Court order, based upon prior application after notice and a hearing. The application shall detail the specific services for which additional compensation is sought and include:
- fees disclosed by applicant in the 2016(b) Statement and/or approved by confirmation order;
  - ~~fees paid to applicant in connection with any prior representation of debtor;~~
  - allowed fees paid applicant through date of the application; and
  - ~~fees allowed to any prior counsel representing debtor.~~
  - a statement of whether an award of the requested fee will or will not result in the total compensation being paid to the debtor’s attorney being greater than one-half of the amount to be funded through the plan.

Additional ~~attorney’s fees and expenses~~ compensation for postpetition services approved by the Court shall be paid through the plan, except as otherwise ordered.

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

- (a) **Debtor Representation.** Unless otherwise ordered by the Court, an attorney representing a debtor shall be the attorney of record and represent the debtor until the case is administratively closed.
- (b) **Required Attorney Duties in a Chapter 7, Chapter 12 and Chapter 13 Case.**
- (1) **Retainer Agreement.** Absent special circumstances approved by the Court, an attorney representing the debtor in a chapter 7, chapter 12 or chapter 13 case ~~in this district~~ shall have a written retainer agreement that sets forth the fee arrangement and comprehensive services to be performed for the debtor in which the attorney agrees to:
- (A) Analyze the client's financial situation, and advise and assist the client in determining whether to file a petition under the Bankruptcy Code;
  - (B) Prepare and file the petition, all required lists, schedules and statements, as well as any amendments that may be necessary or appropriate;
  - (C) File the certificate required from the individual debtor from an approved nonprofit budget and credit counseling agency for pre-petition credit counseling;
  - (D) File the debtor's payment advices together with the "Payment Advice Form" ([Payment Advice Form](#));
  - (E) Appear ~~personally~~ and represent the debtor at any scheduled meeting of creditors under § 341, unless otherwise ordered by the Court;
  - (F) Amend any list, schedule, statement, and/or other document required to be filed with the petition as may be necessary or appropriate;
  - (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;
  - (H) Prepare and file any motion as may be necessary or appropriate including but not limited to a motion to avoid a lien on exempt property, to obtain credit, to sell or abandon property, and to assume or reject a lease;
  - (I) Remove involuntary wage garnishments and/or voluntary wage assignments, as appropriate;
  - (J) Compile and forward to the trustee and the United States trustee any documents and information requested;

- (K) Consult with the debtor and if there is a valid defense or explanation, respond to a motion for relief from the automatic stay;
  - (L) File the debtor's certification of completion of instructional course concerning financial management (Official Form 423); and
  - ~~(M)~~ Represent the debtor in any adversary proceeding filed in the case; and
  - ~~(N)(M)~~ Disclose any agreement and fee arrangement regarding the potential retention of co-counsel.
- (2) **Chapter 7 Case.** In addition to the services identified in subparagraph (b)(1) above, and as may be needed or warranted by the facts of the case, the attorney retained in a chapter 7 case shall prepare and file a motion under § 722 to redeem exempt or abandoned personal property.
- (3) **Chapter 12 and Chapter 13 Cases.** In addition to the duties identified in subparagraph (b)(1) above, and as may be needed or warranted by the facts of the case, the attorney retained in a chapter 12 or chapter 13 case shall:
- (A) Attend the original and any adjourned confirmation hearing and address all objections to confirmation;
  - (B) Negotiate the value of secured claims or, as necessary, represent the debtor at valuation hearings in connection with the confirmation hearing;
  - (C) Prepare and file the necessary pleadings to partially or wholly avoid mortgage liens against the debtor's real property;
  - (D) Within the Local Form Plan in a chapter 13 case or by separate motion seek to provide for the avoidance of a judicial lien or nonpossessory, nonpurchase-money security interest as appropriate;
  - (E) Prepare necessary pre-confirmation amendments and post-confirmation modifications to the plan;
  - (F) Timely review all filed proofs of claim, and object to and file proofs of claim as appropriate;
  - (G) Oversee the filing of all operating reports in a chapter 12 case and any required in a chapter 13 case;
  - (H) Represent the debtor in connection with motions for dismissal or conversion;
  - (I) File the appropriate certification affirmation required under Rule 4004-1(b) to permit the inference that the debtor is entitled to a discharge; and
  - (J) Attend any discharge hearing scheduled and address all objections to discharge.

(4) **Adversary Proceeding.** Debtor's attorney is the attorney of record in any adversary proceeding filed in the case, unless and until:

(A) there is filed written consent to change attorney signed by debtor(s), the attorney to be relieved, and the substituted attorney; or

(B) debtor's attorney is substituted by order of the court upon motion; or

~~(C)~~ debtor's attorney is permitted to withdraw by order of the court upon motion.

### Comment

With reference to subparagraph (b)(3)(F) and the timely review of claims, practitioners are referred to LBR 3007-1(c)(b) for the time by which claim objections are to be filed in chapter 13 cases.

## **RULE 2091-1 WITHDRAWAL OF ATTORNEY**

- (a) **Withdrawal of Attorney of Record.** Withdrawal of an attorney of record must comply with applicable rules of professional conduct.
- (1) **Same Firm, Different Attorney.** Where the firm representing a client remains the same, but the attorney appearing of record changes, withdrawal may be accomplished by the filing of a notice of appearance by new counsel and the filing of a letter withdrawing the notice of appearance by the withdrawing attorney.
  - (2) **With Consent.**
    - (A) **Debtor's Attorney.** The withdrawing attorney must file a consent to change attorney signed by the withdrawing attorney, the client, and the attorney who is to be substituted as counsel.
    - (B) **Other Attorney of Record.** The attorney who is to be substituted as counsel must file a notice of appearance.
  - (3) **Without Consent.** An attorney who has appeared in a case or adversary proceeding may withdraw only upon notice and motion and an order of the Court granting leave to withdraw. Notice shall be given to the client, the United States trustee, the trustee, any § 1104 trustee, any appointed committee, and any party having filed a notice of appearance. If the Court grants leave to withdraw, withdrawing counsel shall serve a copy of the order upon the affected party and file a certificate of service.
- (b) **Withdrawal of Limited Notice of Appearance.** An attorney who has appeared for the limited purpose of receiving notices, may be relieved of representation upon the filing of a written notice of withdrawal.

### **Comment**

Attorneys shall be governed by applicable rules governing their practice, which for New York counsel are the [New York Rules of Professional Conduct \(22 NYCRR Part 1200\)](#).

**RULE 2091-1**

**~~ATTORNEYS—WITHDRAWAL OTHER THAN BY  
SUBSTITUTION~~WITHDRAWAL OF ATTORNEY**

**(a) Withdrawal of Attorney of Record.** ~~Withdrawal of an attorney of record must comply with applicable rules of professional conduct. **Debtor's Attorney—Withdrawal Other Than By Substitution.** Withdrawal of an attorney who has appeared as the attorney of record for a debtor must comply with the applicable rules of professional conduct. An attorney who has appeared as the attorney of record for a debtor may be relieved of representation only by order of the Court after notice and a hearing. A request for withdrawal must be supported by a sworn statement stating satisfactory reasons for withdrawal and a statement of the status of the case. Notice of the requested withdrawal in every instance shall be given to the debtor, the United States trustee, the trustee, any § 1104 trustee, any appointed committee, and any party having filed a notice of appearance.~~

**(1) Same Firm, Different Attorney.** ~~Where the firm representing a client remains the same, but the attorney appearing of record changes, withdrawal may be accomplished by the filing of a notice of appearance by new counsel and the filing of a letter withdrawing the notice of appearance by the withdrawing attorney.~~

**(2) With Consent.**

**(A) Debtor's Attorney.** ~~The withdrawing attorney must file a consent to change attorney signed by the withdrawing attorney, the client, and the attorney who is to be substituted as counsel.~~

**(B) Other Attorney of Record.** ~~The attorney who is to be substituted as counsel must file a notice of appearance.~~

**(3) Without Consent.** ~~An attorney who has appeared in a case or adversary proceeding may withdraw only upon notice and motion and an order of the Court granting leave to withdraw. Notice shall be given to the client, the United States trustee, the trustee, any § 1104 trustee, any appointed committee, and any party having filed a notice of appearance. If the Court grants leave to withdraw, withdrawing counsel shall serve a copy of the order upon the affected party and file a certificate of service.~~

**(a)(b) Withdrawal of Limited Notice of Appearance.** ~~An attorney who has appeared for the limited purpose of receiving notices, may be relieved of representation upon the filing of a written notice of withdrawal.~~

**(b) Other Attorneys of Record.** ~~Withdrawal of an attorney of record other than debtor's counsel must comply with applicable rules of professional conduct.~~

**(1)** ~~An attorney who has appeared in a case or adversary proceeding, other than for the limited purpose of receiving notices, may be relieved of representation only by order of the Court after notice and a hearing, unless substitute counsel has made an appearance for that party. Counsel will not ordinarily be allowed to withdraw if~~



~~withdrawal would delay the progress of an adversary proceeding or contested matter.~~

- ~~(2) An attorney who has appeared for the limited purpose of receiving notices, may be relieved of representation upon the filing of a written notice. Notice of the withdrawal shall be given to debtor's counsel or the debtor if pro se, the United States trustee, the case trustee, any § 1104 trustee, any appointed committee, and any party having filed a notice of appearance. Withdrawing counsel shall file a certificate of service in accordance with this Rule.~~

### **Comment**

Attorneys shall be governed by applicable rules governing their practice, which for New York counsel are the [New York Rules of Professional Conduct \(22 NYCRR Part 1200\)](#).

**~~RULE 2092-1 — ATTORNEYS — SUBSTITUTION~~**

- ~~(a) — Substitution.~~** A debtor's attorney may be substituted by order of the Court after such notice and hearing as the Court may direct. ~~Substitution may be allowed upon submission of an affidavit stating satisfactory reasons for substitution and a statement of the status of the case, or, upon the submission of a stipulation signed by debtor(s), the attorney to be relieved, and the substituted attorney.~~
- ~~(b) — Other Attorneys of Record.~~** ~~Substitution of an attorney of record other than debtor's counsel may be accomplished by providing written notice to the Court, all interested parties and any party having filed a notice of appearance. Substituted counsel shall file a certificate of service in accordance with this Rule.~~

**RULE 4002-1            CHANGE OF ADDRESS OF DEBTOR**

If the address of the debtor changes at any time prior to closure of the case, the debtor shall immediately file with the court a [Change of Address Form](#) or a document that contains the debtor's name, case number, the pro se creditor's name, the original address given the Clerk, and the new address.

**RULE 4002-2**

**ATTORNEY'S DUTY TO MAINTAIN CURRENT CONTACT  
INFORMATION VIA PACER**

**Change of Contact Information.** A registered electronic filer must immediately update their PACER Account if there is any change to their contact information including their telephone number, e-mail or mailing address. This may be accomplished through PACER.

RULE 4002-1

CHANGE OF ADDRESS OF DEBTOR ~~AND DEBTOR'S COUNSEL~~

If the address of the debtor changes at any time prior to closure of the case, the debtor shall immediately file with the court a [Change of Address Form](#) or a document that contains the debtor's name, case number, the pro se creditor's name, the original address given the Clerk, and the new address.

~~(a) If the address of debtor's counsel changes at any time prior to closure of the case, debtor's counsel shall immediately send a letter to the Court's CM/ECF Administrator that advises of the address change to the below address:~~

~~CM/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 changes at any time prior to closure of the case, the party in interest may file a Change of Address Form 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.~~

RULE 4002-23 ATTORNEY'S DUTY TO MAINTAIN CURRENT CONTACT INFORMATION VIA PACERA-VALID E-MAIL ADDRESS

~~Valid E-Mail Address.~~ A registered user of the CM/ECF system must maintain a valid e-mail address and promptly resolve any technical issue with the user's e-mail account.

- (a) ~~Change of E-Mail Address~~Contact Information. A registered ~~user~~electronic filer must immediately update their PACER Account ~~CM/ECF user account~~ if there is any change to their contact information including their telephone number, e-mail or mailing address. This may be accomplished ~~by using the feature "Maintain Your ECF Account" found under the "Utilities Menu."~~through PACER.
- (b) ~~Undeliverable E-Mails.~~ The Clerk may disable a registered user's account if an e-mail is returned to the Clerk as undeliverable. Common reasons why e-mails are undeliverable include a full mailbox or a filter issue. The holder of a disabled account cannot file electronically and may be brought before the Court on an order to show cause for failing to comply with the Court's electronic filing requirements.

**RULE 5005-1        ELECTRONIC FILING**

**(a) Method of Filing.**

- (1) By a Represented Entity.** An entity represented by an attorney must file documents electronically in accordance with the [Administrative Procedures](#), unless otherwise permitted by the Court
- (2) By an Unrepresented Individual.** Except as provided in subparagraph (d), an individual not represented by an attorney must file documents in paper format. Documents may be filed in any of the Clerk's offices in the district.

**(b) Signature.** The authorized 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](#).

**(c) Email and Facsimile.** The Clerk will not accept documents submitted via email or facsimile for filing.

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



**RULE 5005-1 ELECTRONIC FILING ~~AND SERVICE~~**

**(a) ~~Filing of any Petition, List, Schedule, Statement, Amendment, Pleading, Affidavit, Proof of Claim, and Other Papers (each a “document”)~~ Method of Filing.**

**(1) By a Represented Entity.** An entity represented by an attorney must file documents electronically in accordance with the [Administrative Procedures](#), unless otherwise permitted by the Court

~~(2)~~ **By an Unrepresented Individual.** ~~Except as provided in subparagraph (d),~~ An individual not represented by an attorney must file documents in paper format. Documents may be filed in any of the Clerk’s offices in the district.

~~(b) **Place of Filing.** A document required to be in writing must be filed electronically or in the Clerk’s office where the assigned judge sits.~~

~~(e) **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.~~

~~(e)~~**(b) Signature.** The authorized 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) **Service via CM/ECF.** A document is considered served when sent to a registered user by filing it through CM/ECF.~~

~~(e)~~**(c) Email and Facsimile.** The Clerk will not accept documents submitted via email or facsimile for filing.

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

~~(g)~~**(e) Use of Court’s Website to Submit an Electronic Registration for CM/ECF Password.** ~~Any CM/ECF Registration form submitted electronically, using the Court’s website, shall have the same force and effect as if the individual signed a paper copy of the registration form.~~

**RULE 5005-2      ELECTRONIC FILING REGISTRATION**

**(a) Registering for Electronic Filing Privileges.** An electronic filing registration form shall be submitted to the NYNB through an individual PACER account at [www.pacer.uscourts.gov](http://www.pacer.uscourts.gov).

**(1) Attorney Filer.** An attorney must be admitted to practice in the Northern District of New York either via standard admission or pro hac vice admission and must be in good standing to be eligible for electronic filing privileges.

**(2) Non-Attorney Limited Filers.**

**(A) Filing Agent.** An individual employed by an attorney or trustee may register to file electronically as an agent on behalf of the attorney or trustee. When an agent files on behalf of the attorney or trustee, the docket text displays the name of the attorney or trustee as the filer.

**(B) Creditor.** An individual employed by a claims agent or non-individual creditor who is not represented by an attorney may register to file electronically as a limited filer. A limited filer may 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.

**RULE 5005-2 ELECTRONIC ~~CASE-FILING~~ PASSWORDS~~REGISTRATION~~**

(a) **Registering Password for Electronic Filing Privileges.** An electronic filing registration form shall be submitted to the NYNB through an individual PACER account at [www.pacer.uscourts.gov](http://www.pacer.uscourts.gov). 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 Filer—Admitted Within District.** An attorney must be admitted to practice in the Northern District of New York either via standard admission or pro hac vice admission and must be in good standing to be eligible for electronic filing privileges. ~~will be issued a password after submitting a completed Attorney Registration Form to the Court.~~

~~(2) **Attorney Not Admitted in the 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.~~

**(2) Non-Attorney Limited Filers.**

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

(3) **Non-Attorney (Limited Use) Creditor.** An individual employed by a claims agent or non-individual creditor who is not represented by an attorney ~~or a claims agent~~ may obtain-register to file electronically as a limited filer. A limited filer 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 Limited Use Registration Form.~~

~~(b) **Submission of a Registration Form for Obtaining a Password.** Registration for a CM/ECF password shall be completed electronically by submitting the appropriate registration form.~~

~~(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.~~

~~(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.

**Comment**

~~Issuance of a limited use password under subparagraph (a)(2) of this Rule is not a substitute for admission pro hac vice.~~

## **RULE 5010-1 REOPENING A CASE**

- (a) **Closed Cases.** The only motions that will be acted upon in a closed case are motions to reopen a case or to redact. No other relief may be requested in a closed case until the order reopening the case is entered. Unless otherwise ordered by the Court, motions filed in contravention of this paragraph will result in a deficiency notice being issued by the Clerk.
- (b) **Filing Fee.** A motion to reopen a case pursuant to [Fed. R. Bankr. P. 5010](#) shall be accompanied by the appropriate filing fee, unless subject to exemption or deferral as set forth below:
- (1) **Exemption.** No filing fee is due when a case is reopened:
- (A) to permit a party to file a complaint to obtain a determination under Fed. R. Bankr. P. 4007(b); or
- (B) when a debtor files a motion to reopen a case based upon an alleged violation of the terms of the discharge under § 524; or
- (C) when the reopening is to correct an administrative error made by the Clerk or Court.
- (2) **Deferral.** The Court may defer payment of the filing fee when a case is reopened by a trustee and there is no asset available from which to pay the filing fee. The filing fee shall be paid promptly upon the trustee's ability to do so. The trustee shall notify the Court if no assets are discovered and payment of the filing fee will be waived.
- (d) **Notice of Motion to Reopen.** Unless the Court orders otherwise, notice of a motion to reopen shall be given to the former trustee, the United States trustee and, when the moving party is not the debtor, to the debtor and debtor's counsel. Except as provided in paragraph (e) of this Rule, a motion to reopen a case must be noticed for a hearing pursuant to [LBR 9013-3](#).
- (e) **Ex Parte Relief.** A motion to reopen a case may be considered ex parte if the purpose of the reopening is (1) to file a debtor's certificate of completion of financial management course, (2) to correct an administrative error made by the Clerk or Court, (3) to permit a debtor to pursue an alleged violation of the terms of the discharge under § 524, or (4) to avoid a judicial lien pursuant to § 522(f).

**RULE 5010-1 REOPENING A CASE**

- (a) **Closed Cases.** The only motions that will be acted upon in a closed case are motions to reopen a case or to redact. No other relief may be requested in a closed case until the order reopening the case is entered. Unless otherwise ordered by the Court, motions filed in contravention of this paragraph will result in a deficiency notice being issued by the Clerk ~~and may be stricken sua sponte by the Court.~~
- (b) **Filing Fee.** A motion to reopen a case pursuant to Fed. R. Bankr. P. 5010 ~~shall be in writing and~~ shall be accompanied by the appropriate filing fee, unless subject to exemption or deferral as set forth below:-
- (1) ~~Waiver~~**Exemption.** No filing fee is due when a case is reopened to~~The Court may waive payment of the filing fee when a case is reopened to:~~
- A. to permit a party to file a complaint to obtain a determination under Fed. R. Bankr. P. 4007(b); or
- ~~A.~~B. when a debtor files a motion to reopen a case based upon an alleged violation of the terms of the discharge under § 524; or
- C. when the reopening is to correct an administrative error made by the Clerk or Court on account of actions relating to the debtor's discharge.
- (2) **Deferral.** The Court may defer payment of the filing fee when a case is reopened by a trustee and there is no asset available from which to pay the filing fee. The filing fee shall be paid promptly upon the trustee's ability to do so. The trustee shall notify the Court if no assets are discovered and payment of the filing fee will be waived.
- ~~(c) **Retrieval Fee.** A separate retrieval fee must accompany the motion if the case has been transmitted to the Federal Records Center for storage. The retrieval fee may not be waived by the Court.~~
- (d) **Notice of Motion to Reopen.** Unless the Court orders otherwise, notice of a motion to reopen shall be given to the former trustee, the United States trustee and, when the moving party is not the debtor, to the debtor and debtor's counsel. Except as provided in paragraph (e) of this Rule, a motion to reopen a case must be noticed for a hearing pursuant to LBR 9013-3.
- (e) **Ex Parte Relief.** A motion to reopen a case may be considered ex parte if the purpose of the motion reopening is (1) to file a debtor's certificate of completion of financial management course, (2) to correct an administrative error made by the Clerk or Court, (3) to permit a debtor to pursue an alleged violation of the terms of the discharge under § 524~~on account of actions relating to the debtor's discharge~~, or (4) to avoid a judicial lien pursuant to § 522(f). ~~A motion to redact may be considered ex parte.~~

## RULE 9011-3 SIGNATURE AND ELECTRONIC FILING

- (a) **Original Signature and Electronic Filing.** Any petition, list, schedule, statement, amendment, pleading, affidavit, or other document that requires an original signature or verification under [Fed. R. Bankr. P. 1008](#) or an unsworn declaration, as provided in [28 U.S.C. § 1746](#), may be filed electronically by a registered electronic filer.
- (b) **Signature Block.** In addition to the requirement under [Fed. R. Bankr. P. 9011\(a\)](#) that each paper states the signer's address and telephone number, the attorney's signature block shall include the signer's e-mail address and Northern District of New York attorney bar roll identification number.
- (c) **Format of Electronic Signature.** A pleading or other document electronically filed shall indicate a signature, in the format "/s/name" unless the document has been scanned and shows the actual signature.
- (d) **Unregistered Attorney's Use of a Registered Attorney's Account is Not Permitted.** The name of the attorney displayed on the docket as the electronic filer must match the attorney name signed on the electronically-filed document. Attorneys who are not registered with the Bankruptcy Court for the Northern District of New York, and therefore, have not been issued electronic filing privileges are not permitted to electronically file documents using the account of a registered attorney, unless the registered attorney is a co-filer of the document and that status is clearly apparent from the document.
- (e) **Retention of Original Signature.** The document bearing the original signature must be retained by the filer for a minimum of two (2) years after the closing of the case and all time periods for appeals have expired unless the Court orders a different period. In an adversary proceeding, the parties shall maintain the original documents for a minimum of two (2) years after the proceeding is closed and all time periods for appeals have expired unless the Court orders a different period. These retention periods do not affect or replace any other periods required by other applicable laws or rules. Upon request of the Court, the filer must provide the document bearing the original signature for review.
- (f) **Presentation of Original Petition at § 341 Meeting.** Counsel for the debtor shall bring to the § 341 meeting of creditors the original petition bearing the original signature of the debtor.
- (g) **Electronic Signature on Stipulations or other documents requiring multiple signatures.** The following procedure applies when a stipulation or other document requires two or more signatures:
  - (1) The filer shall obtain the signatures of all parties required to sign the document. For purposes of this Rule an email or facsimile signature is permitted.
  - (2) The filer shall either (i) scan the document reflecting the actual signatures and upload the same, or (ii) indicate each signature using the format "/s/name."

## RULE 9011-3 SIGNATURE AND ELECTRONIC FILING

- (a) **Original Signature and Electronic Filing.** Any petition, list, schedule, statement, amendment, pleading, affidavit, or other document that requires an original signature or verification under [Fed. R. Bankr. P. 1008](#) or an unsworn declaration, as provided in [28 U.S.C. § 1746](#), may be filed electronically by a registered [electronic filer](#)~~user~~.
- (b) **Signature Block.** In addition to the requirement under [Fed. R. Bankr. P. 9011\(a\)](#) that each paper states the signer's address and telephone number, the attorney's signature block shall include the signer's e-mail address and Northern District of New York attorney bar roll identification number.
- (c) **Format of Electronic Signature.** A pleading or other document electronically filed shall indicate a signature, in the format "/s/name" unless the document has been scanned and shows the actual signature.
- (d) **Unregistered Attorney's Use of a Registered Attorney's ~~Account Login and Password~~ is Not Permitted.** The [name of the attorney](#) ~~login name displayed on the docket as the electronic filer~~ must match the attorney name signed on ~~the~~ electronically-filed document. Attorneys who are not registered with the Bankruptcy Court for the Northern District of New York, and therefore, have not been issued [electronic filing privileges](#) ~~a login and password~~ are not permitted to electronically file documents using the ~~account login and password~~ of a registered attorney, unless the registered attorney is a co-filer of the document and that status is clearly apparent from the document.
- (e) **Retention of Original Signature.** The document bearing the original signature must be retained by the filer for a minimum of two (2) years after the closing of the case and all time periods for appeals have expired unless the Court orders a different period. In an adversary proceeding, the parties shall maintain the original documents for a minimum of two (2) years after the proceeding is closed and all time periods for appeals have expired unless the Court orders a different period. These retention periods do not affect or replace any other periods required by other applicable laws or rules. Upon request of the Court, the filer must provide the document bearing the original signature for review.
- (f) **Presentation of Original Petition at § 341 Meeting.** Counsel for the debtor shall bring to the § 341 meeting of creditors the original petition bearing the original signature of the debtor.
- (g) **Electronic Signature on Stipulations or other documents requiring multiple signatures.** The following procedure applies when a stipulation or other document requires two or more signatures:
- (1) The filer shall obtain the ~~physical~~ signatures of all parties required to sign the document. For purposes of this Rule [an email or](#) facsimile signature is permitted.
  - (2) ~~Depending on the preference within each division of this district, t~~The filer shall either
    - (i) scan the document reflecting the actual ~~script~~ signatures and upload the same, or
    - (ii) indicate each signature using the format "/s/name."



**~~RULE 9034-1 — NOTICE TO AND SERVICE UPON THE UNITED STATES TRUSTEE~~**

- ~~(a) — Notice. In addition to the notice required to be given to the United States trustee pursuant to Fed. R. Bankr. P. 2002(k) and 9034, the United States trustee has requested that any entity filing the following documents shall also transmit an electronic and paper copy to the United States trustee.~~
- ~~(1) — Any pleading and other document related to the appointment of any Chapter 11 trustee or examiner pursuant to § 1104;~~
  - ~~(2) — Any pleading and other document related to a motion filed under § 363(b) in a Chapter 11 case;~~
  - ~~(3) — Any fee application and objection filed in connection with §§ 330 and 331 in a Chapter 11 case;~~
  - ~~(4) — Any disclosure statement, plan and amendment filed thereto, pursuant §§ 1121 and 1125; and~~
  - ~~(5) — All operating reports required under LBR 2015-2.~~
- ~~(b) — Service. The time and manner of service shall conform to these Local Bankruptcy Rules, the Court's Administrative Procedures and the Federal Rules of Bankruptcy Procedure and shall be effected contemporaneously with service upon all other parties in interest.~~

**~~Comment~~**

~~The address for notice to or service upon the United States trustee is available at the United States trustee's website: www.justice.gov/ust/r02~~

~~This Rule is intended to supplement the requirements of notice to the United States trustee pursuant to Fed. R. Bankr. P. 2002(k), 5005(b), and 9034.~~

~~Motions filed in a chapter 7 or chapter 13 case shall not be served in paper form upon the United States trustee.~~