

APPENDIX A
Summary of Material Changes to Bankruptcy Court Local Rules

Rule 1007-1(d) – Compliance with § 109(h) (Credit Counseling): Section 109(h) of the Bankruptcy Code requires individual debtors to complete a credit counseling course before filing a petition for relief. This section is amended to clarify procedures for dealing with when a debtor fails to comply with this requirement.

Rule 1009-1 – Amendments of Petitions, Bankruptcy Schedules, and Statement of Financial Affairs: New Local Rule added to require the conspicuous notation of changed information in amendments to a debtor’s bankruptcy petition, statements, or schedules.

Rule 1015-1 – Joint Administration/Consolidation of Bankruptcy Cases: Clarified procedure for noticing motions to consolidate or to jointly administer related bankruptcy cases.

Rule 2003-1 – Meeting of Creditors and Equity Security Holders: Clarified procedures for the following situations: (1) when debtor fails to appear at the first meeting of creditors; (2) motions to reschedule the first meeting; and (3) motions to appear telephonically at the meeting.

Rule 2004-1 – Examination Under Rule 2004: Clarified the use of a subpoena to compel the attendance or production of documents by a non-debtor entity for a Bankruptcy Rule 2004 examination.

Rule 2081-1 – Chapter 11 - General: Clarified procedures and requirements regarding the production of certain documents to the United States Trustee upon the filing of a Chapter 11 case.

Rule 2083-1 – Chapter 13 – General: The Utah Bankruptcy Court has adopted the new Chapter 13 national plan form created by the Advisory Committee on Rules of Bankruptcy Procedure. This Local Rule contains significant changes to facilitate the adoption of the national plan form. It also clarifies procedures in the following areas: (1) when a debtor fails to appear or produce required documents at the first meeting of creditors; (2) when a debtor seeks to modify payments to a secured creditor; (3) and the review and processing of filed proofs of claim.

Rule 2083-2 – Provisions Regarding Use of Official Chapter 13 Plan Form: The national Chapter 13 plan form was created with the intent that bankruptcy courts would augment the specifics of plan administration and procedures through the adoption of local rules. This new rule serves this purpose by providing specific instructions as to each section of the national Chapter 13 plan form. This is the most notable change to the Bankruptcy Court’s Local Rules.

Rule 2090-1 – Attorneys - Admission to Practice: Amended admission procedures to the Bankruptcy Court Bar to be more consistent with the District Court’s Local Rules.

Rule 2090-1 – Attorneys - Discipline and Disbarment: Clarified that the imposition of sanctions against an attorney requires a notice and hearing.

Rule 2091-1– Debtor’s Attorneys - Scope of Representation: Clarified duties of debtor’s counsel in advising their clients (primarily focused on consumer clients) during the bankruptcy case. Also, moved to Local Rule 2091–2 the procedure for withdrawing as counsel for a debtor.

Rule 2091-2 – Attorneys - Substitution or Withdrawal of Attorney: Clarified procedure for counsel to withdraw either in an adversary proceeding or in the main bankruptcy case.

Rule 3007-1– Objections to Claims: Clarified procedures for pleading, serving, and noticing an objection to a proof of claim.

Rule 3022-1 – Final Report/Decree (Chapter 11): Clarified procedure for debtor in an individual chapter 11 case to obtain a discharge.

Rule 4001-1 – Relief from Automatic Stay: Clarified factual allegations that should be included in motions for relief from the automatic stay.

Rule 5005-1 – Filing Requirements: Clarified what private information must be redacted from papers filed in a bankruptcy case.

Rule 5005-2 – Filing Papers - Electronic Filing: Updated rule to reflect that all attorneys must file via ECF, and clarified that relief for technical failures is limited to the ECF system and not to failures of the filer’s computer system.

Rule 5005-3 – Filing Papers - Size and Form of Papers: Consistent with the District Court’s Local Rules, added a section that describes encouraged and impermissible hyperlinks in filed bankruptcy papers (e.g., links to case citations are encouraged).

Rule 6005-1 – Standing Auctioneers: The United States Trustee Program has supervisory authority over auctioneers used in bankruptcy cases to liquidate property of the bankruptcy estate. Through an application process, an auctioneer may be appointed to serve in any bankruptcy case without further approval, thus becoming a “standing” auctioneer. This rule has

been updated and augmented to clarify the application process and the use of standing auctioneers in bankruptcy cases.

Rule 6070-1 – Tax Returns and Tax Refunds: Simplified requirements for tax trust accounts in bankruptcy cases.

Rule 7056-1 and 9013-1 – Citation of Unpublished Decisions: Updated rule to allow the citation of unpublished decisions that are readily accessible through a recognized publisher of legal opinions.

Rule 9006-1 – Time Periods: Amended rule to comply with recent amendments to FRCP. 6(d) removing the three additional days when service is made by electronic means.

Rule 9011-2 – Parties Appearing Without an Attorney: Clarified the potential consequences when non-individual parties appear in the bankruptcy court without an attorney, including dismissal, conversion of case, striking the pleading, etc.

Rule 9013-1(m) – Motion to Shorten Time for Expedited Hearing: Clarified procedure for obtaining an expedited hearing.

Rule 9013-2(f)(5)(A) – Court Action on Motions – Non-Prosecuted Motions: Added section that if an order on an uncontested motion is not submitted within 28 days after expiration of the objection deadline (with no objections being filed), court may require that motion be re-noticed depending upon intervening motions, orders, etc. occurring in the case.

Rule 9019-1(c) – Settlements of § 727 Adversary Proceedings: An action under § 727 of the Bankruptcy Code can result in the denial of a debtor's discharge as to all creditors even though all creditors are not parties to the adversary proceeding. This section was added to ensure that all creditors are given notice of such a settlement, and it allows the court to set a hearing to determine if the settlement is in the best interest of all creditors versus solely in the best interest of the plaintiff.

Rule 9021-1 – Preparation and Submission of Judgment or Order: Clarified the form requirements for orders prepared by counsel.

Rule 9070-1(a)(3) – Electronic Exhibits: Added a section regarding the submission and use of electronic exhibits.

APPENDIX B

Summary of Material Changes to National Bankruptcy Rules

These amendments will go into effect on December 1, 2017, unless Congress takes action to the contrary.

Bankruptcy Rule 1006(b) – Paying of Filing Fee in Installments. Amended to clarify that courts may not refuse bankruptcy petitions or summarily dismiss cases based on a debtor’s failure to make the first filing fee installment payment. Dismissal for such cause must proceed according to Bankruptcy Rule 1017(b)(1).

Bankruptcy Rule 1015(b) – Cases Involving Related Debtors. Replaces reference to “husband and wife” with “spouses.”

Bankruptcy Rule 2002 – Notice to Creditors. Clarifies notice requirements for objections to a Chapter 13 plan and the hearing on confirmation.

Bankruptcy Rule 3002 – Filing of Proof of Claim or Interest. Secured creditors must now file a claim to have an allowed claim in a bankruptcy case. The rule also alters the claims’ bar date in Chapter 7, 12 and 13 cases from 90 days after the first meeting of creditors to 70 days after the petition date (a net reduction of approximately 60 days).

Bankruptcy Rule 3007 – Objections to Claims. Amended to clarify that Rule 7004 (service of summons) does not apply to claims objections. In addition, the rule will no longer require that a hearing be scheduled or held on every claim objection. If there is no response to the claim objection, the court may enter appropriate relief without a hearing.

Bankruptcy Rule 3012 – Determining Secured and Priority Claims. Expressly allows for the valuation of collateral through proffers made in a Chapter 12 or 13 plan. Disputes regarding the amount of a priority claim must be resolved through a motion or claim objection.

Bankruptcy Rule 3015 – Chapter 13 Plan. Requires use of national Chapter 13 plan form – Official Form 113, unless District opts out under Bankruptcy Rule 3015.1. Also provides that valuation through plan trumps value listed in proof of claim.

Bankruptcy Rule 3015.1 – Local Chapter 13 Plan. Provides procedure for District to opt out of national Chapter 13 plan form and requirements for local plan.

Bankruptcy Rule 4003 – Exemptions. Permits the Chapter 13 plan to provide for the stripping of a judicial lien that impairs an exemption, pursuant to 11 U.S.C. § 522(f).

Bankruptcy Rule 5005 – Filing and Transmittal of Papers. Attorneys must file papers by ECF. Pro se parties may file by ECF but are not required to do so. Also, the filing of a paper by ECF serves as the attorney’s signature.

Bankruptcy Rule 5009 – Order Declaring Lien Satisfied. Upon completion of Chapter 12 or 13 plan, debtor may move the court for an order declaring that liens paid through plan are deemed satisfied and that such liens are released against the subject collateral.

Bankruptcy Rule 7001 – Adversary Proceedings. Clarifies that the valuation of collateral under a Chapter 13 plan is not an adversary proceeding that requires the filing of a complaint (see Bankruptcy Rule 3012 above).

Bankruptcy Rule 8002 – Time for Filing Notice of Appeal. For purposes of appeal, order is entered when it appears on the docket.

Bankruptcy Rule 8018.1. District-Court Review of a Judgment that Bankruptcy Court Lacked Constitutional Authority to Enter. If district court determines that bankruptcy court lacked jurisdiction to rule on matter, it may treat bankruptcy court order as proposed findings of fact and conclusions of law.

Note 1. If the bankruptcy court is found to lack jurisdiction, the district court can: (1) refer the matter back to the bankruptcy court to make proposed findings; (2) retry the matter *de novo*; or (3) review the bankruptcy court’s findings *de novo* and then enter its own order or judgement. *See In re Renewable Energy Development Corp.*, 792 F.3d 1274 (10th Cir. July 10, 2015)

Note 2. In 2016, Bankruptcy Rule 7016 was amended to require the bankruptcy court to decide on its own motion, or that of a party, whether: “(1) to hear and determine the matter; (2) to hear the proceeding and issue proposed findings of fact and conclusions of law; or (3) to take some other action.”

Note 3. In 2016, Bankruptcy Rules 7008 and 7012 were also amended to require parties to an adversary proceeding (i.e., a complaint filed in the bankruptcy court) to affirmatively consent, or not consent, to the entry of final order or judgment by the bankruptcy court. *See Wellness International Network, Ltd. v. Sharif*, 135 S.Ct. 1932 (2015).

Bankruptcy Rule 9009 -- Official Forms. Current Rule 9009 requires only substantial compliance with Official Forms and expressly provides that “[f]orms may be combined and their contents rearranged to permit economies in their use.” As amended, Rule 9009 is more restrictive and requires the use of Official Forms “without alteration, except as otherwise provided in these rules or in a particular Official Form.”