

**Report to the United States District Court
for the Northern District of Illinois
from the Bankruptcy Court
Proposing Amendments to the Local Bankruptcy Rules**

The judges of the Bankruptcy Court respectfully request that the following thirty-six amendments to the Local Bankruptcy Rules be approved by the District Court.

Carol A. Doyle
Chief Bankruptcy Judge

1. PROPOSED AMENDMENT TO LOCAL RULE 1000-1.

The Bankruptcy Judges recommend amending Local Rule 1000-1 by adding definitions for the terms “Administrative Procedures” and “CM/ECF.”

RULE 1000-1 DEFINITIONS

(1) “Administrative Procedures” shall mean the Administrative Procedures for the Case Management/Electronic Case Filing System, adopted by the court on February 17, 2004, as amended;

(2) the “Bankruptcy Code” shall mean Title 11 of the United States Code, as amended;

(3) a “business day” shall include any day other than a Saturday, Sunday, or a legal holiday as defined by Fed. R. Bankr. P. 9006(a);

(4) “clerk” shall include the clerk of the court, any deputy clerk, and any member of a judge’s staff who has taken the oath of office to perform the duties of a deputy clerk;

(5) “clerk of the court” shall mean the clerk of the court duly appointed by the Bankruptcy Court;

(6) “CM/ECF” shall mean the Case Management/Electronic Case Filing System;

(7) “court” or “Bankruptcy Court” shall mean the bankruptcy judges of the United States District Court for the Northern District of Illinois;

(68) “courtroom deputy” shall mean the deputy clerk assigned to perform courtroom duties for a particular judge;

(79) the “date of presentment” shall refer to the day on which the motion is to be presented in open court according to the notice required by Rule 9013-1;

(810) “District Court” shall mean the United States District Court for the Northern District of Illinois;

(911) “District Court Local Rules” shall mean the Civil Rules promulgated by the District Court;

(102) “Executive Committee” shall mean the Executive Committee of the District Court;

(113) “judge” shall mean the judge assigned to a case or an adversary proceeding or any other judge sitting in that judge’s stead;

(124) the terms “motion,” “petition,” and “application” shall refer to any request for an order, however characterized.

(135) “Rules” shall mean these Local Bankruptcy Rules and any amendments or additions thereto;

(146) “Rule _____” shall mean a rule within these Rules and any amendments and additions thereto;

(157) “trustee” shall mean the person appointed or elected to serve as case trustee under the Bankruptcy Code, but not the debtor in possession in a case under Chapter 11.

2. PROPOSED AMENDMENT TO LOCAL RULE 1000-2.

The Bankruptcy Judges recommend amending Local Rule 1000-2 by adding a section clarifying the difference between general, standing, and administrative orders and referring to the Administrative Procedures.

RULE 1000-2 SCOPE OF RULES

A. Scope of Rules

These Rules are promulgated by the District Court and the Bankruptcy Court pursuant to Fed. R. Civ. P. 83 and Fed. R. Bankr. P. 9029. They may be cited as “Local Bankruptcy Rules” and ~~shall~~ will govern procedure in the Bankruptcy Court, and in the District Court in all bankruptcy cases and proceedings as defined in 28 U.S.C. § 157, to the extent that they are not inconsistent with applicable law, the Federal Rules of Bankruptcy Procedure, or the Official Bankruptcy Forms. These Rules ~~shall~~ will be construed to secure the expeditious and economical administration of every case within the district under the Bankruptcy Code and the just, speedy, and inexpensive determination of every proceeding therein.

B. Previous Bankruptcy Rules Rescinded

All local bankruptcy rules adopted by the District Court and the Bankruptcy Court prior to the adoption of these Rules are rescinded.

C. Application of District Court Local Rules

The District Court Local Rules ~~shall~~ will apply to the Bankruptcy Court and bankruptcy cases only when the District Court Local Rules or these Rules so specify, or when applied by any judge to proceedings before that judge in situations not covered.

D. Additional Procedural Orders

(1) In addition to these Rules, procedures in the Bankruptcy Court may also be governed by

(a) General Orders, issued by the court, applicable in all cases, and

(b) Standing Orders, issued by an individual judge, applicable in cases pending before that judge.

(2) The chief judge may issue, on behalf of the court, Administrative Orders governing matters such as hours of operation, court holidays, and case

assignments.

(3) Administrative Procedures have been adopted by the court pursuant to Fed. R. Bankr. P. 5005 and Rule 5005-1(A).

3. **PROPOSED AMENDMENT TO LOCAL RULE 1006-1.**

The Bankruptcy Judges recommend amending Local Rule 1006-1 in light of the new Federal Rule of Bankruptcy Procedure 1006.

RULE 1006-1 PAYMENT OF FILING FEE IN INSTALLMENTS

A. ~~Application for Installment Payments~~

~~Any petition filed by an individual without payment of all applicable filing fees must be accompanied by the debtor's signed application stating that the debtor is unable to pay the filing fee except in installments and proposing a payment schedule. The application must further state that the debtor has neither paid any money nor transferred any property to an attorney or any other person for services in connection with the case and that no compensation will be paid to any such persons until the filing fee has been paid in full.~~

B. ~~Requirements~~

~~The clerk shall enter, on behalf of the judge to whom the case is assigned, an order granting leave to pay the filing fees as proposed in the debtor's application only if: (1) the application meets the requirements set forth in paragraph A; (2) the petition is voluntary; (3) the debtor is an individual; (4) the number of proposed installments does not exceed four; and (5) the final proposed installment is scheduled to be paid within 120 days after the filing of the petition.~~

C. ~~Notice of Noncompliance~~

~~If the requirements of section B are not met, the clerk shall within three days of the filing give notice to the judge to whom the case is assigned.~~

D. ~~Notice to Creditors~~

~~The clerk shall not send notice of the commencement of the case or meeting of creditors to any party in interest until the order described in section B has been entered or the judge to whom the case is assigned has entered an order allowing the filing fees to be paid in installments.~~

A. Required Payments

If a debtor applies to pay the filing fee in installments pursuant to Fed. R. Bankr. P. 1006, the clerk may enter on behalf of the judge to whom the case is assigned the appropriate order, which will require four equal payments due 30, 60, 90, and 120 days after the petition is filed.

B. Notice to Creditors

If a debtor applies to pay the filing fee in installments, the clerk will not send notice of the commencement of the case or meeting of creditors to any party in interest until the order described in section A has been entered or the judge to whom the case is assigned has entered an order allowing the filing fee to be paid in installments.

4. **PROPOSED AMENDMENT TO LOCAL RULE 1006-2.**

The Bankruptcy Judges recommend amending Local Rule 1006-2 to reflect the importance of paying promptly for electronic filings. This proposal and the next are related. Existing Local Rules differentiate between fees for petitions and fees for all other documents. These proposals differentiate between fees for electronic filings and fees for paper filings.

~~**RULE 1006-2**~~ ~~**FORM OF PAYMENT OF FEE FOR FILING PETITION**~~

~~The clerk shall accept payment of the fee for filing a petition for relief as follows:~~

- ~~a. A debtor may tender cash, cashier's check, certified check or money order.~~
- ~~b. In addition to the foregoing, an attorney for the debtor may also tender the attorney's check or the attorney's credit card.~~

~~The clerk shall not accept personal, non-certified checks or credit cards from a debtor in payment of this fee.~~

RULE 1006-2 **PAYMENT OF FEES FOR ELECTRONIC FILINGS**

Subject to Rule 1006-1, any document filed electronically must be accompanied by the appropriate fee.

5. **PROPOSED AMENDMENT TO LOCAL RULE 1006-3.**

The Bankruptcy Judges recommend amending Local Rule 1006-3 to provide for payment of fees for paper filings.

~~**RULE 1006-3 FILING FEES FOR DOCUMENTS OTHER THAN ORIGINAL PETITIONS**~~

~~Except as otherwise provided by these Rules, any document submitted for filing must be accompanied by the appropriate fee. Notwithstanding this provision, the clerk will accept a document without prepayment of a fee and will notify the assigned judge, within three business days, that the fee has not been paid. The judge may enter an order striking the document without prior notice.~~

RULE 1006-3 PAYMENT OF FEES BY DEBTORS AND OTHER NON-REGISTRANTS

Subject to Rule 1006-1, any document filed on paper must be accompanied by the appropriate fee in the form of cash, cashier's check, certified check, or money order. The clerk may not accept personal, non-certified checks or credit cards from pro se parties or other non-registrants.

6. **PROPOSED AMENDMENT TO LOCAL RULE 1007-2.**

The Bankruptcy Judges recommend amending Local Rule 1007-2 to simplify the rule and correct some drafting errors.

~~**RULE 1007-2**~~ ~~**CLAIMS DOCKETS**~~

~~The clerk will supervise preparation of claims dockets in all cases. However, subject to the Administrative Procedures for Electronic Filing and unless excused by order of the court, if the number of creditors in any case exceeds 500, the debtor shall employ, with leave of court, an entity to assist the clerk in performance of this function under direction of the clerk, unless excused by order of the court.~~

RULE 1007-2 **CLAIMS REGISTERS**

The clerk will supervise preparation of claims registers in all cases. If, however, there are more than 500 creditors in a case, the debtor must employ an entity approved by the clerk to assist the clerk in the performance of this function, unless excused by order of the court.

7. **PROPOSED AMENDMENT TO LOCAL RULE 1009-1.**

The Bankruptcy Judges recommend amending Local Rule 1009-1 to discourage late disclosure of creditors.

RULE 1009-1 NOTICE OF AMENDMENTS TO VOLUNTARY PETITIONS, LISTS OR SCHEDULES; NOTICE TO CREDITORS ~~ADDED AFTER FIRST NOTICE MAILED.~~

The debtor ~~shall~~ must serve amendments to voluntary petitions, lists, or schedules under Fed. R. Bankr. P. 1009(a) on all creditors, the trustee, and in ~~a Chapter 11 case,~~ on the United States Trustee and any official committee of unsecured creditors, and ~~shall~~ must file ~~a~~ proof of such service with the clerk. In addition, if, after filing the petition, the debtor files the creditor list or adds any creditors to the schedules ~~after the first notice of the meeting of creditors under §341 or 1104(b) of the Bankruptcy Code has been mailed,~~ the debtor ~~shall~~ must serve each such creditor, by first-class or certified mail, with a copy of the original notice of the meeting of creditors, and ~~shall~~ must file ~~a~~ proof of such service with the clerk.

8. PROPOSED AMENDMENT TO LOCAL RULE 1017-1.

The Bankruptcy Judges recommend amending Local Rule 1017-1 to eliminate the requirement to file three copies of a notice of conversion from chapter 13 to chapter 7.

RULE 1017-1 CONVERSION FROM CHAPTER 13 TO CHAPTER 7

All notices of conversion of chapter 13 cases to chapter 7 cases, pursuant to §1307(a) of the Bankruptcy Code and Fed. R. Bankr. P. 1017(f)(3), ~~shall~~must be filed with the clerk's office ~~in triplicate~~, accompanied by: (1) proof of service on the designated chapter 13 standing trustee and the United States Trustee, and (2) any required fee.

9. PROPOSED AMENDMENT TO LOCAL RULE 1017-2.

The Bankruptcy Judges recommend amending Local Rule 1017-2 to make it more precise by changing the words “proceedings” and “proceeding” to the words “cases” and “case,” changing the word “papers” to the word “documents,” and changing the phrase “delivered to” to the phrase “filed with.”

**RULE 1017-2 MOTIONS OF PARTIES TO DISMISS CHAPTER 7
~~PROCEEDINGS~~CASES**

A. Procedure Generally

Any trustee or party in interest may move to dismiss a chapter 7 ~~proceeding~~case by filing with the clerk each of the following:

- (1) a completed request for notice of hearing on the form approved by the court and supplied by the clerk;
- (2) a notice of motion with a certificate indicating service of the motion on the debtor, the United States Trustee, and any party on the notice list under Fed. R. Bankr. P. 2002 (m); and
- (3) the motion to dismiss.

B. Date of Presentment of Motion to Dismiss

The date of presentment of the motion to dismiss ~~shall~~must be no less than 28 nor more than 35 ~~calendar~~ days from the date the ~~papers~~documents referred to in section A of this Rule are ~~delivered to~~filed with the clerk. The date and time of presentment ~~shall~~must be set for a date and time that the assigned judge normally hears new motions in chapter 7 cases.

C. Notice of Motion to Dismiss to be Sent by Clerk

Upon receipt of the ~~papers~~documents referred to in section A of this Rule, the clerk ~~shall~~will cause notice to be sent pursuant to Fed. R. Bankr. P. 2002(a)(4).

10. PROPOSED AMENDMENT TO LOCAL RULE 2070-1.

The Bankruptcy Judges recommend amending Local Rule 2070-1 to delete section D which is not accurate.

RULE 2070-1 SURETIES ON BONDS

A. Security For Bonds

Except as otherwise provided by law, every court-ordered bond or similar undertaking must be secured by:

- (1) the deposit of cash or obligations of the United States in the amount of the bond;
- (2) the undertaking or guaranty of a corporate surety holding a certificate of authority from the Secretary of the Treasury; or
- (3) the undertaking or guaranty of two individual residents of the Northern District of Illinois.

B. Affidavit of Justification

A person executing a bond as a surety pursuant to section A(3) of this Rule ~~shall~~must attach an affidavit of justification, giving the person's full name, occupation, residence, and business addresses and showing that the person owns real or personal property in this district which, after excluding property exempt from execution and deducting the person's debts, liabilities, and other obligations (including those which may arise by virtue of the person's suretyship on other bonds or undertakings), is properly valued at no less than twice the amount of the bond.

C. Restriction on Sureties

No member of the bar and no officer or employee of this court ~~shall~~may act as surety in any action or proceedings in this court.

~~**D. Bond Must Be Approved by Court**~~

~~Every bond or similar undertaking must be approved by the court.~~

11. PROPOSED AMENDMENT TO LOCAL RULE 2090-3.

The Bankruptcy Judges recommend amending Local Rule 2090-3 to delete the requirement for filing a motion for admission to appear pro hac vice. The motion serves no purpose, and the status should be extended on proof of filing the application and paying the fee in the District Court.

RULE 2090-3

**APPEARANCE BY ATTORNEYS NOT
MEMBERS OF THE BAR OF THE
DISTRICT COURT (Pro Hac Vice)**

~~A member in good standing of the bar of the highest court of any state or of any United States district court may appear before this court upon motion and proof of compliance with the applicable District Court Local Rule. The motion for admission under this Rule may be presented by the attorney seeking admission.~~

An attorney who is not a member of the bar of the District Court but who is a member in good standing of the bar of the highest court of any state or of any United States District Court may appear before this court after:

- (1) completing the form application for leave to appear *pro hac vice* as prescribed by the District Court,
- (2) paying the required fee to the clerk of the District Court, and
- (3) filing the application and receipt for payment with the clerk of this court.

No order of court is required.

12. PROPOSED DELETION OF LOCAL RULE 2090-4.

The Bankruptcy Judges recommend deleting Local Rule 2090-4 which requires designation of local counsel in contested matters and adversary proceedings. The only function of local counsel was to receive service, which is no longer necessary with electronic filing.

~~**RULE 2090-4 ————— DESIGNATION OF LOCAL COUNSEL FOR SERVICE**~~

~~**A. — Designation of Local Counsel**~~

~~Unless excused by order for cause shown, an attorney primarily responsible for matters before the court (“lead counsel”), but not having an office in this district, may not appear before this court in any contested matter or adversary proceeding unless such lead counsel first designates a member of the bar of the District Court having an office within this district upon whom service may be made. The attorney so designated shall file a separate “Appearance as Local Counsel” if that attorney is not to participate in the case beyond the extent required by paragraph C of this Rule.~~

~~**B. — Penalties for Failing to Designate Local Counsel**~~

~~Where the nonresident lead counsel files pleadings without the required designation of local counsel, the clerk shall process them as if the designation were filed. If that lead counsel fails to file the required designation of local counsel, the pleadings filed may be stricken by the court without prior notice.~~

~~**C. — Duties of Local Counsel**~~

~~An attorney designated as local counsel pursuant to this Rule shall be responsible for receiving service of notices, pleadings and other documents and promptly notifying the nonresident lead counsel of their receipt and contents. The local counsel may also appear in the place of the lead counsel. This Rule does not require the local counsel to take responsibility for any substantive aspects of the litigation or to sign any pleading, motion, or other paper.~~

13. **PROPOSED AMENDMENT TO LOCAL RULE 2090-5**

The Bankruptcy Judges recommend amending Local Rule 2090-5 to state that electronically filing a document constitutes an appearance and to add section D, the substance of which more logically appears here than where it previously was, in Local Rule 2091-1.

RULE 2090-5 APPEARANCES

A. ~~Appearance Forms~~ Individual Appearances; Appearances by Firms Prohibited

~~Appearances filed when required by~~

- (1) Filing a document electronically constitutes entering an appearance for the party on whose behalf the document is filed, and no further notice of appearance under Fed. R. Bankr. P. 9010(b) shall be filed on is required.
- (2) Any other appearance must be filed by the attorney appearing using forms prescribed by the District Court, signed by each individual attorney appearing, and not with the firm name.

B. Appearance of Attorney for Debtor; Adversary Proceedings

Counsel who represents the debtor upon the filing of a petition in bankruptcy is deemed to appear as attorney of record on behalf of the debtor for all purposes in the bankruptcy case, including any contested matter, but is not deemed to appear in any adversary proceeding filed against the debtor.

C. Appearance by United States Attorney or United States Trustee

No appearance form need be filed by the United States Attorney or the United States Trustee or any of their assistants when appearing in the performance of their duties.

D. Appearance of Attorney for Other Parties

Once an attorney has appeared in a contested matter or an adversary proceeding, that attorney is the attorney of record for the party represented for all purposes incident to the matter or proceeding, unless a court orders otherwise.

14. PROPOSED AMENDMENT TO LOCAL RULE 2091-1.

The Bankruptcy Judges recommend amending Local Rule 2091-1 by relocating the first sentence to Local Rule 2090-5(D) and by making stylistic changes.

RULE 2091-1

**WITHDRAWAL, ADDITION, AND SUBSTITUTION
OF COUNSEL**

~~Once an attorney has filed an appearance form, that attorney is the attorney of record for the party represented for all purposes incident to the proceeding in which the appearance was filed. The An attorney of record may not withdraw, nor may other attorneys ~~file an appearance~~ on behalf of the same party or as a substitute for the attorney of record, without first obtaining leave of court by motion, except that substitutions or additions may be made without motion where both counsel are of the same firm. Where the appearance indicates that pursuant to these Rules a member of the trial bar is acting as a supervisor or is accompanying a member of the bar, the member of the trial bar included in the appearance may not withdraw, nor may another member be added or substituted, without first obtaining leave of court. Any motion to withdraw must be served on the client as well as all parties of record.~~

15. PROPOSED ADDITION OF NEW LOCAL RULE 3007-1.

The Bankruptcy Judges recommend adopting new Local Rule 3007-1 to clarify procedures for objecting to claims.

RULE 3007-1

OBJECTIONS TO CLAIMS

Subject to Fed. R. Bankr. P. 3007, objections to claims must be noticed for hearing as an original motion in accordance with Rule 9013-3 and must identify the claimant and claim number.

16. **PROPOSED AMENDMENT TO LOCAL RULE 4001-1.**

The Bankruptcy Judges recommend amending Local Rule 4001-1 by adding subsection A, the substance of which the court has required since February 17, 2004.

**RULE 4001-1 MOTIONS ~~-DATE OF REQUEST~~ TO MODIFY
STAY ~~-UNDER 11 U.S.C. § 362~~**

~~Under § 362(e)~~

A. Required Statement

All motions seeking relief from the automatic stay pursuant to § 362 of the Bankruptcy Code, ~~the~~ must be accompanied by a completed copy of the Required Statement form available on the Court's web site (www.ilnb.uscourts.gov). Motions filed without the Required Statement may be stricken or denied without notice.

B. Date of Request

The date of the "request" for relief from the automatic stay ~~referred to in § 362(e) of the Bankruptcy Code~~ is deemed to be the date of presentment of the motion, provided that the movant has complied with ~~the notice requirements under Fed. R. Bankr. P. 9014 and any other~~ applicable notice requirements ~~of these Rules~~.

- (g) Provisions that prime any secured lien, without the consent of that lienor.
 - (h) A declaration that the order does not impose lender liability on any secured creditor.
 - (i) Provisions that grant the lender expedited relief from the automatic stay in § 362 of the Bankruptcy Code, or relief from the automatic stay without further order of court.
 - (j) In jointly administered cases, provisions for joint and several liability on loans.
- (3) All Financing Motions ~~shall~~ must also provide a summary of all provisions that must be highlighted under section (A)(2) of this Rule and a summary of the essential terms of the proposed use of cash collateral or financing, including the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations, and protections afforded under § §363 and 364 of the Bankruptcy Code.
 - (4) All Financing Motions ~~shall~~ must also provide a budget covering the time period in which the order ~~shall~~ will remain in effect. The budget ~~shall~~ must state in as much detail as is reasonably practical the amount of projected receipts and disbursements during the period covered by the budget.
 - (5) The court may deem unenforceable any provision not highlighted as required under section (a)(2) of this Rule.

18. PROPOSED ADDITION OF NEW LOCAL RULE 4003-1.

The Bankruptcy Judges recommend adopting new Local Rule 4003-1 to clarify procedures for objecting to debtor's exemptions.

RULE 4003-1 OBJECTIONS TO DEBTOR'S EXEMPTIONS

Subject to Fed. R. Bankr. P. 4003, objection to exemptions claimed by a debtor must be noticed for hearing as an original motion in accordance with Rule 9013-3.

19. **PROPOSED AMENDMENT TO LOCAL RULE 5005-1.**

The Bankruptcy Judges recommend amending Local Rule 5005-1 to address electronic filing.

RULE 5005-1 ~~PLACE AND METHOD OF FILING~~

~~A. Office of the Clerk of the Court~~

~~All papers shall be filed with the office of the clerk of the United States Bankruptcy Court located in Chicago, Illinois for the Eastern Division or the office of the clerk of the United States Bankruptcy Court located in Rockford, Illinois for the Western Division.~~

~~B. Materials to Be Filed in Division in which Venue Lies~~

~~Documents commencing a bankruptcy case shall be filed with the clerk in the division of the court in which venue is appropriate. Unless otherwise ordered by the court, following the filing of a case all materials relating to that case shall be filed in the division to which the case is assigned at the time of the filing.~~

~~C. Electronic Case Filing~~

A. Administrative Procedures

The court may adopt Administrative Procedures to permit filing, signing, service and verification of documents by electronic means in conformity therewith.

B. Electronic Case Filing

Pursuant to Fed. R. Bankr. P. 5005(a)(2), all documents must be filed in accordance with the Administrative Procedures.

C. Divisions of the District

The caption of each document must identify the division of the court to which the case is assigned.

D. Paper Documents

If paper documents are permitted or required by the Administrative Procedures, they must be filed at the office of the clerk in Chicago, Illinois, for Eastern Division cases, and the office of the clerk in Rockford, Illinois, for Western Division cases.