

## PART IX

### GENERAL PROVISIONS

#### 9004-2 *Caption - Papers, General*

- a. **In General.** All papers for filing must include in the caption the bankruptcy case number, the chapter of the case, and the name of the Judge to whom the case is assigned. The caption shall include a title that summarizes or describes the content of the document.
- b. **Adversary Proceedings.** In addition to the requirements immediately above, the caption for all papers filed in adversary proceedings must include the adversary proceeding number.

#### 9010-1 *Attorneys - Notice of Appearance*

Contemporaneously with the first filing of any paper, an attorney representing any party-in-interest shall file a Notice of Appearance, except that an attorney who has signed the original complaint, petition or notice of removal is not required to file a Notice of Appearance. The Notice of Appearance must include the attorney's name, mailing address, phone number, fax number and email address, if available. An attorney requesting a change of address for the attorney's office shall file a written notice.

#### 9011-2 *Pro Se Parties*

- a. **Corporations and Partnerships.** A corporation or partnership may not appear without counsel in any case or proceeding, except that it may file a proof of claim or a reaffirmation agreement, if signed by an authorized officer or agent.
- b. **Individuals.** Any individual representing himself or herself without an attorney must appear personally for all purposes. Except as provided below in this rule, the representation of an individual may not be delegated to any other individual other than an attorney.
- c. **Compliance with Rules.** Any individual appearing without an attorney is required to comply with these Local Bankruptcy Rules, the Federal Rules of Bankruptcy Procedure and the Federal Rules of Evidence.
- d. **Child Support Creditors and Representatives.** A child support creditor or representative may appear and intervene in cases and proceedings upon the filing of the form attached as Appendix F.

9013-1 *Motion Practice*

- a. ***“After Notice and a Hearing.”*** Whenever Title 11 of the United States Code, any rule or any order authorizes an act “after notice and a hearing” or similar phrase or whenever notice of a proposed action is otherwise required:
- (1) Movant shall file and serve a motion together with a **NOTICE** in the form of Appendix G on the parties required to receive notice and file a certificate of service pursuant to LBR 9013-3. Every NOTICE under this rule shall be accompanied by a copy of the proposed order the movant will submit in the event no response to the motion is filed. With respect to an agreed order, the parties to the agreed order shall file and serve the motion and NOTICE in the form of Appendix G with a copy of the proposed agreed order attached as an exhibit.
  - (2) **The hearing date and time and last day to file responses must be included in the NOTICE.** The hearing date shall be obtained from the Clerk’s office or the Court’s web site at <[www.tnmb.uscourts.gov](http://www.tnmb.uscourts.gov)>. Hearings in Chapter 12 and Chapter 13 cases may only be scheduled for Chapter 13 hearing dates. Hearings in all other cases may not be scheduled for a Chapter 13 hearing date. Unless Title 11 of the United States Code, the Federal Rules of Bankruptcy Procedure or these local rules provide otherwise, the NOTICE shall provide for a twenty (20) day response period to run from the placing of the NOTICE in the U.S. mail, postage prepaid. The hearing date shall be no sooner than **ten (10)** business days after the last day to file responses. Departure from this rule requires compliance with LBR.9075-1.
  - (3) The NOTICE served pursuant to this rule is not effective unless the NOTICE includes the deadline for filing responses and the date, time and place of the hearing on any response that may be filed.
  - (4) **Any response to a motion shall state prominently the deadline for filing responses, the date of the scheduled hearing and a description of the motion or NOTICE to which it relates.** An objection to a motion filed under this rule may be overruled if the response does not include the deadline for filing responses and the date of the scheduled hearing.
  - (5) If a timely response is filed, the hearing will be held at the date and time in the Notice. No further notice of the hearing date is required. If a timely response is filed, LBR 9014-1 shall apply.
  - (6) If a timely response is filed and the contested matter is subsequently resolved on the merits by agreement of all parties, an agreed order will excuse attendance at the hearing date only if it is filed no later than Noon on the third business day prior to the hearing date. Otherwise, announcement of an agreement resolving the merits of a

contested matter may be made by counsel at the first call of the docket on the hearing date.

- (7) **The failure to file and serve a timely response shall be deemed a statement of no opposition to the relief requested.**
- (8) If no timely response is filed, movant or the parties to an agreed order shall file the original of the order or agreed order exhibited in the NOTICE no later than five (5) days after the hearing date. If no timely response is filed, movant or the parties to an agreed order are excused from attendance at the hearing date. If no timely response is filed, LBR 9014-1 shall not apply.
- (9) After the order or agreed order has been signed and received for entry, the party submitting the order or agreed order shall serve a copy of the signed order on the parties required to receive notice. This requirement of separate service of the signed order is waived if the NOTICE mailed pursuant to paragraph (1) of this rule included a copy of the order or agreed order and no timely response was filed.

**b. Exclusions and Modifications.**

- (1) **Exclusions.** LBR 9013-1a shall not apply to the following motions:
  - (a) Motions to Convert Chapter 12 or Chapter 13 Cases filed by the Trustee
  - (b) Motions to Dismiss Chapter 12 or Chapter 13 Cases filed by the Trustee
  - (c) Motions and agreed orders for Relief from Stay under § 362(d)
  - (d) Motions in a case controlled by a separate case management order
  - (e) Motions in adversary proceedings, except motions for default judgment
- (2) **Modifications.** LBR 9013-1a is modified to include the additional requirements provided in the following rules:
  - (a) LBR 2014-1 Notice of Employment Application
  - (b) LBR 2016-1 Notice of Fee Application
  - (c) LBR 2082-1 Motions to Modify or Amend Chapter 12 Plans
  - (d) LBR 3007-1 Objections to Claims
  - (e) LBR 3011-1 Unclaimed Funds
  - (f) LBR 3015-2 Motions to Modify or Amend Chapter 13 Plans
  - (g) LBR 6007-1 Notice of Abandonment

### 9013-2 *Briefs and Memoranda of Law*

- a. **Time for Filing.** When a timely response is filed in any contested matter and a hearing is scheduled, parties to the contested matter may submit briefs or memoranda of law no later than two (2) business days prior to the hearing.
- b. **Citations.** Currently, the Court has access to Westlaw and Lexis. Any citation to any document that is in a format that allows retrieval from Westlaw or Lexis is acceptable. Otherwise, a copy of the cited document must be provided.

### 9013-3 *Certificate of Service*

- a. **In General.** when the United States Code, Federal Rules of Bankruptcy Procedure or these Local Rules require a party to provide notice or to serve papers, the responsible party shall file a certificate of service within three (3) business days after giving notice or making service.
- b. **Contents of Certificate.** The certificate shall state the manner in which notice or service was effected and shall include the names and addresses of all parties served. A copy of the notice or papers served shall be attached to the certificate. For Chapter 12 and 13 cases, the certificate shall also include the total number of parties served.

### 9014-1 *Contested Matters*

- a. **Pretrial Orders and Conferences.** Unless provided otherwise in a notice or order, pretrial orders and pretrial conferences are not required in contested matters. At any time, any party may file a motion requesting a pretrial conference.
- b. **Response Required.** In all contested matters not controlled by a NOTICE under LBR 9013-1 in which no order or notice provides otherwise, any party in opposition to the relief requested shall file and serve a response denominated as an “answer” or “objection” on or before the earlier of ten (10) days after service of the paper commencing the contested matter or five (5) days before any scheduled hearing of the contested matter. **The failure to file and serve a timely response shall be deemed a statement of no opposition to the relief requested. If no timely response is filed, LBR 9014-1c shall not apply.**
- c. **Required Disclosures and Pretrial Disclosures.** When a timely response has been filed, discovery in all contested matters shall include the following:
  - (1) **Required Disclosures.** Without waiting for a discovery request, every party shall provide to every other party the information listed below. A party shall make these Required Disclosures based on the information then reasonably available and is not

excused from these Required Disclosures because it has not fully completed its investigation or because it challenges the sufficiency of another party's disclosure or because another party has not made its disclosure.

- (a) The name, address and telephone number of each individual likely to have discoverable information relevant to the contested matter, identifying the subject(s) of the information;
  - (b) A copy of, or a description by category and location of, all documents, data compilations and tangible things in the possession, custody or control of the party that are relevant to the contested matter;
  - (c) The identity of any person who may be used at trial as an expert witness under Rules 702, 703 or 705 of the Federal Rules of Evidence. This disclosure shall be accompanied by a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness; the compensation to be paid for the testimony and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding four years.
  - (d) The disclosures required in paragraphs (a) and (b) shall be completed no later than five (5) days after service of the response or two (2) business days prior to the hearing, whichever occurs first. The disclosures required in paragraph (c) shall be completed no later than ten (10) days after service of the response or two (2) business days prior to the hearing, whichever occurs first.
- (2) **Pretrial Disclosures.** In addition to the disclosures required by paragraph (1) above, every party shall provide to every other party two (2) business days prior to the hearing the following information regarding evidence it may present at a hearing or trial (other than solely for impeachment purposes):
- (a) The name, address and telephone number of each witness the party expects to present or may call if the need arises;
  - (b) A copy of the transcript of testimony or affidavit of any witness whose testimony will be offered in that form;
  - (c) A list and copy, with appropriate identification, of each document or other exhibit a party expects to offer or may offer as evidence.

- d. **Notice of Estimated Time for Trial.** When it appears that a contested matter will require in excess of one-half day for hearing or trial, counsel shall advise the Courtroom Deputy for the Judge assigned to the case.
- e. **First Time Continuances in Contested Matters.** Except with respect to stay relief addressed by LBR 4001-1, the agreement of all parties to continue for the first time a hearing in a contested matter (but not in adversary proceedings) excuses the attendance of counsel at the first scheduled hearing of the contested matter if:
  - (1) A Joint Motion for First Continuance *and* an Agreed Order for First Continuance are filed no later than Noon on the fourth business day prior to the date of the scheduled hearing;
  - (2) The agreed order specifies the date, time and place for the continued hearing of the contested matter;
  - (3) If the contested matter arises in a Chapter 13 case, the agreed order is signed by the Chapter 13 trustee.

In the alternative, announcement of the agreement of all parties to continue for the first time a hearing in a contested matter may be made by counsel at the first call of the docket on the hearing date if a Joint Motion and Agreed Order as described above are filed no later than Noon of the third business day after the first hearing date.

#### 9018-1 *Secret, Confidential, Scandalous or Defamatory Matter*

To file a document under seal, other than an ADR submission pursuant to LBR 9019-2, the following procedure must be followed:

- a. **Sealing Original Material.** The original material must be sealed in an envelope with the caption (case name, case number, adversary proceeding number (if applicable) and title of document) on the front of the envelope. **No copies of sealed material shall be filed.**
- b. **Motion and Proposed Order.** The sealed material must be accompanied by a motion and proposed order directing the Clerk to place the material under seal. The proposed order shall identify the parties, if any, who may have access to material that is under seal and under what circumstances. If an order sealing material has been entered, a copy of that order shall accompany the sealed material delivered to the Clerk.
- c. **File with Clerk or Chief Deputy.** Material under seal must be filed with the Clerk or Chief Deputy personally. Material filed under seal will not be accepted at the counter and cannot be filed in the drop box.

- d. **Access to Sealed Material.** Access to material that is under seal for parties not already authorized shall be by motion. An order granting access must be presented to the Clerk or Chief Deputy at the time of access.

#### 9019-2 *Alternative Dispute Resolution*

Pursuant to 28 U.S.C. §§ 471, 473(a)(6) and 651-58, and FED. R. BANKR. P. 7016(c)(9), the United States Bankruptcy Court for the Middle District of Tennessee has created an Alternative Dispute Resolution Program (“ADR Program”). The ADR Program is contained in a lengthy separate document known as “The ADR Program for the United States Bankruptcy Court for the Middle District of Tennessee.” That document is available at the Court’s web site, <www.tnmb.uscourts.gov>, and from a copy service designated by the Court. The ADR Program is part of the Local Bankruptcy Rules and may be cited as LBR 9019-2 . The ADR Program is experimental and may be modified from time to time.

#### 9029-1 *Local Rules - General*

- a. **Effective Date.** These Local Bankruptcy Rules shall take effect **April 4, 2003**.
- b. **Citation to Local Rules.** The Local Rules of the United States Bankruptcy Court for the Middle District of Tennessee shall be cited as LBR (number of rule).

#### 9070-1 *Exhibits*

After final determination of any matter or proceeding, parties shall have thirty (30) days within which to withdraw exhibits. In the event the exhibits are not withdrawn, the Clerk may, without notice, dispose of the exhibits.

#### 9072-1 *Orders - Proposed*

- a. **Filing of Proposed Orders.** All orders orally announced in court shall be prepared by the attorney for the prevailing party and filed within five (5) days.
- b. **Approved for Entry.** All proposed orders shall be “Approved for Entry” by the signature of the preparing attorney.

#### 9075-1 *Emergency Orders - Expedited Motions and Orders*

- a. **When appropriate.** Expedited motions and orders are those rare matters requiring action on notice shorter than that fixed by the Federal Rules of Bankruptcy Procedure or by LBR 9013-1 or 9014-1. Expedited orders include orders when all notice requirements have been satisfied, a hearing has been held, or the matter has been resolved by agreement or otherwise and immediate entry of an order is imperative.

- b. **Obtaining Expedited Relief.** A request for expedited relief will be specially handled by the Clerk's office only if the request is by motion captioned, "**Expedited Motion**," and the motion is in the following form:
- (1) Paragraph one shall state the expedited relief requested.
  - (2) Paragraph two shall explain why there is urgency, including what deadline or event precludes the giving of routine notice or requires accelerated processing of the motion or order.
  - (3) Paragraph three shall state to whom, when and how notice of the expedited motion was given.
  - (4) Paragraph four shall contain the movant's suggestion of when the expedited motion can or should be set for hearing, or an explanation why no hearing is required.
  - (5) Paragraph five shall contain any other statement or argument in support of the motion.
- c. **Proposed Expedited Order.** Every expedited motion shall be accompanied by a proposed order captioned, "**Expedited Order**." If the motion requests a hearing, the proposed order shall include appropriate blanks for the Clerk to insert the date, time and location of the hearing. Under the signature line on the proposed order, movant shall provide a phone number that is answered by a person and a facsimile number.
- d. **Service of Expedited Order.** The movant shall immediately serve the Expedited Order by hand delivery, facsimile or other means reasonably calculated to give immediate notice.