

FOR PUBLIC COMMENT

PROPOSED LOCAL BANKRUPTCY RULES FOR THE MIDDLE DISTRICT OF TENNESSEE WITH COMMENTARY

Public Comment Period Closes
November 13, 2015 at 4:00 p.m. (CST)

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2003-1. Meeting of Creditors and Equity Security Holders

(a) Failure of Debtor to Appear at the 11 U.S.C. § 341 Meeting of Creditors. Failure of the debtor in a voluntary case to appear at a scheduled 11 U.S.C. § 341 meeting of creditors constitutes cause for dismissal. ~~Upon the filing by t~~ The trustee or the United States Trustee may file of a Report of Nonappearance, Notice and Motion to Dismiss, by selecting the applicable ECF docket entry. Any objection to the dismissal of a case must be filed within 21 days from entry of the Notice and Motion to Dismiss. If no timely objection is filed, an Order of Dismissal will be entered by the Clerk.

Comment:

Revision, paragraph (a). The ECF dismissal event for trustees is simplified by giving trustees the ability to file a single ECF event: Report of Nonappearance, Notice and Motion to Dismiss. The ECF event generates a form Notice and Motion to Dismiss document without the need for a trustee to create, convert and attach a .pdf document as part of the ECF filing process.

The revision is proposed in conjunction with the proposed revision to LBR 9013-1(b) (adding an express exclusion for motions to dismiss for failure of a debtor to appear at the meeting of creditors under this rule).

4002-1. Debtor - Duties

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(b) Domestic Support Obligations. With respect to each domestic support obligation, the debtor shall include on ~~Schedule E to Official Form 6:~~ Official Form 106E/F:

~~(1) the name and address of each claim holder (the names of minor children shall not be revealed); and~~

(2) the name, address and telephone number of the child support enforcement agency for the state in which each claim holder resides.

Comment:

Revision, paragraph (b). The revision is proposed to address changes to the Bankruptcy Forms effective December 1, 2015. The reference to the Official Bankruptcy Form 6E is replaced with new Official Bankruptcy Form 106E/F. Subparagraph (1) is deleted because it is duplicative of the information required in the new form.

7003-1. Cover Sheet

An Adversary Cover Sheet in the form prescribed by the Administrative Office of the United States Courts must be completed and filed with each complaint filed in paper format.

Comment:

Revision. Form B104, the Adversary Proceeding Cover Sheet, is not mandatory. The instructions for the form state that it is required only if required by the court. When an adversary proceeding is filed electronically, the Clerk is able to collect the information without the use of a cover sheet, so the proposed revision eliminates the cover sheet requirement except for complaints filed in paper format.

9013-1. Motion Practice

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(b) Exclusions and Modifications.

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(1) Exclusions. LBR 9013-1(a) shall not apply to the following motions:

- (a) Motions to Convert Chapter 12 or Chapter 13 Cases filed by the Trustee
- (b) Motions and agreed orders under LBR 4001-1
- (c) Motions in a case controlled by a separate case management order
- (d) Motions in adversary proceedings, except motions for entry of default judgment whether issued by the Clerk or by the court under FED.R.CIV.P. 55(b) made applicable by FED.R.BANKR.P. 7055(b)
- (e) Motions for withdrawal or substitution of attorneys pursuant to LBR 2091-1
- (f) Motions to dismiss or convert a case to Chapter 7 under § 1112
- (g) Motions for Voluntary Dismissal of a Chapter 13 Case
- (h) Motions to approve reaffirmation agreements
- (i) Motions under FED. R.BANKR.P. 9023 or 9024, except motions under LBR 9024-1
- (j) Motions to Dismiss under LBR 2003-1(a)

Comment:

Addition, paragraph (b). The revision is made in conjunction with the proposed revision to LBR 2003-1(a). The revision clarifies that a trustee or U.S. Trustee may move for dismissal under LBR 2003-1(a) without following the procedure in LBR 9013-1(a). This revision reflects current practice.