

PART IX GENERAL PROVISIONS

9004-2. Caption – Papers, General

(a) In General.

(1) 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.

(2) All orders submitted for entry shall specify the relief to be granted by the order.

(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. An attorney requesting a change of address must accomplish an address change by logging in the court's ECF system under Utilities > Maintain My User Account.

9013-1. Motion Practice

Any request for relief, other than one requiring a complaint resulting in the initiation of an adversary proceeding under FED. R. BANKR. P. 7001, must be made by written motion. Unless a motion is excluded pursuant to section (b), all motions must be initiated by the process indicated in this rule.

(a) “If Objection” Process. The majority of motions should be handled through an “if objection” process, whereby a hearing date is selected by movant's counsel from the availability calendar found on the court's website. A hearing will be conducted only if an entity files a timely written objection to the relief sought. The procedure to be used for this type of “if objection” motion is governed by subsections (c) and (d) below.

(b) Exclusions from “If Objection” Process. Exclusions from the “if objection” procedure generally include certain types of motions that are set for a hearing by the court regardless of whether an objection is filed, a limited number of routine motions that are acted upon by the court without the necessity of any time period for objections or any hearing, motions requiring an expedited process under LBR 9075-1, and most motions in adversary proceedings. Motions that are excluded from the “if objection” process are identified in more detail on the court's website at www.tnmb.uscourts.gov > Local Rules > 9013-1 Motions — Exclusion List, and

such list is considered to be a part of these local rules. If a motion is excluded from the “if objection” process, the court will either act on the request without a hearing or set the matter for a hearing with appropriate notice.

(c) Requirements for “If Objection” Process. The “if objection” process requires the following:

(1) Movant shall file and serve a motion together with a notice in the form located on the court’s website at <www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix G on the parties required to receive notice, and file a certificate of service pursuant to LBR 9013-3. Every motion under this rule shall include, by attachment or exhibit, a copy of the proposed order or agreed order the movant will submit in the event no response to the motion is filed. Unless the cumulative size of the document dictates otherwise, the three required components should be filed as a single PDF document with the notice first, followed by the motion and then the proposed order.

(2) The hearing date, time, location, specific courtroom (if applicable), and last day to file responses must be included in the notice. The hearing date shall be obtained from the court’s availability calendar located on the court’s website at www.tnmb.uscourts.gov. Cases in the Cookeville and Columbia divisions should only be set on dockets for those respective divisions unless court approval is obtained to conduct the hearing in Nashville. With regard to Nashville division cases, hearings in Chapter 12 and Chapter 13 cases may only be scheduled for Chapter 13 hearing dates. Hearings in all other cases in the Nashville division 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 21 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 7 days after the last day to file responses. Departure from this rule requires compliance with LBR 9075-1.

(3) Any response to a motion shall state prominently the deadline for filing responses, the date, time, location, and specific courtroom (if applicable) of the scheduled hearing and a description of the motion or notice to which it relates.

(4) 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.

(5) If a timely response is filed and the contested matter is subsequently resolved by agreement of all parties, an agreed order will excuse attendance only if it is filed prior to the hearing. Otherwise, announcement of an agreement resolving a contested matter may be made by counsel at the first call of the docket on the hearing date.

(6) The failure to file and serve a timely response shall be deemed a statement of no opposition to the relief requested.

(7) 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 7 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.

(8) 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 subparagraph (1) of this rule included an identical copy of the order or agreed order that was ultimately entered and no timely response was filed.

(d) Modifications. LBR 9013-1(a) 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 4003-2 Lien Avoidance
- (h) LBR 6005-1 Auctioneers & Real Estate Agents
- (i) 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 noon on the second 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 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.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

IN RE:)
)
) CASE NO.
) CHAPTER
 Debtor(s).) JUDGE
)

MOTION TO WITHDRAW UNCLAIMED FUNDS

[Name of applicant] moves for an order directing the Clerk to remit to the applicant the sum of [\$], which was deposited into the Treasury of the United States as unclaimed funds for [name of individual or entity for whom funds are on deposit] (“Claimant”).

Applicant certifies, under penalty of perjury, that:

- (1) Applicant has conducted a reasonable investigation.
- (2) The money on deposit with the Treasury of the United States is owed to the Claimant.
- (3) The funds sought have not been paid to the Claimant or to any agent on the Claimant's behalf.
- (4) Applicant is the Claimant; or Applicant has authority to collect the funds on behalf of the Claimant as evidenced by the attached Power of Attorney or other proof that Applicant is an authorized representative for the Claimant.
- (5) No other motion is pending for recovery of the same unclaimed funds.
- (6) Applicant has complied fully with the requirements of 28 U.S.C. § 2042.

Dated:

[Applicant]
[Address]
[Phone number]

[Attorney for Applicant]
[Address]
[Phone number]

CERTIFICATE OF SERVICE

I hereby certify that on the _____ day of _____, _____, I mailed a copy of the foregoing to the U.S. Attorney, 110 Ninth Avenue, South, Suite A-961, Nashville, Tennessee 37203-3870, the U.S. Trustee, 701 Broadway, Customs House Suite 318, Nashville, Tennessee 37203, [name of debtor(s)], [address], [name of debtor's attorney], [address], [name of trustee], [address], and [name of Claimant], [address].

Attachments:

- (1) **Power of Attorney** or other proof if Claimant is represented by an agent or attorney.
- (2) **Proof of Identity and AO Form 213 Form (Vendor Information/TIN Certification).**

Business/Corporate Claimant: If the Claimant is a corporation, partnership or other business entity, the AO 213 Form must provide the name and title of the corporate officer, general partner or business representative along with the address, telephone number, email address and taxpayer identification number.

Individual Claimant: If the Claimant is an individual, the AO 213 Form must provide the name of the claimant, address, telephone number, email address and taxpayer identification number (social security number).

The AO 213 Form must contain an actual signature. Digital signatures or electronic signatures are not allowed. Claimants who do not complete the Financial Information section of the form will receive their payments by check.

- (3) **Proof that the funds are owed to the Claimant:** Any supporting documentation that proves the claimant is entitled to the funds requested. This can be in the form of a copy of the proof of claim, the trustee's report of unclaimed funds, or the order of distribution.
- (4) **Notice of Motion** pursuant to LBR 9013-1 (Appendix C).
- (5) **Notarized signature of the claimant.** A certificate of a notary public attached to the Motion to Withdraw Unclaimed Funds which bears the seal of the notary who has examined the documents presented, which establish the claimant's identity.