

LOCAL RULES OF COURT FOR THE
UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT
OF TENNESSEE

Amended and Restated as of
December 1, 2016

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PART I

COMMENCEMENT OF CASE, PROCEEDINGS RELATED TO PETITION AND ORDER FOR RELIEF

1006-1. Fees – Installment Payments

Notice of motions to dismiss for failure to pay a filing fee pursuant to FED. R. BANKR. P. 1017(b) shall only be provided to the debtor, debtor's counsel, trustee and the United States Trustee.

1007-1. Lists, Schedules, Statements, and Other Documents

(a) Alphabetical List of Creditors. The debtor shall file the list of creditors required by FED. R. BANKR. P. 1007(a)(1) with the petition and the list shall be in the form located on the court's website at <www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms> Appendix A.

(b) Late-Filed Statements and Schedules; Service

If the statements and schedules are not filed with the petition or with a motion for voluntary conversion, the debtor shall serve a copy of the statements and schedules, when filed, on any trustee serving in the case and on the United States Trustee and file a certificate of mailing pursuant to LBR 9013-3. If the late-filed schedules identify creditors not listed on the original list, the debtor shall file an amended list containing the names and addresses of the additional creditors.

(c) Payment Advices. Payment advices or other evidence of payment described in 11 U.S.C. § 521(a)(1)(B)(iv):

(1) shall not be filed with the court except on motion and order consistent with LBR 9013-1; and

(2) shall be provided to the Chapter 7 or Chapter 13 Trustee, and to the United States Trustee at e-mail address ustpreion08.na.ecf@usdoj.gov in Chapter 7 and Chapter 11 cases only.

1007-3. Filing Credit Counseling and Financial Management Certificates of Joint Debtors

Joint debtors shall file their individual Credit Counseling Certificates and individual Financial Management Certificates as separate documents.

1009-1. Amendments to Lists & Schedules

An amendment to a voluntary petition, list, schedule or statement shall include an attached Notice of Amendment stating, with specificity, the nature of the amendment being made. If an amendment to Schedule D, E/F, G or a List of Creditors is filed, the Notice of Amendment shall only state the additional creditors added to the List of Creditors.

1017-1. Conversion – Request for/Notice of

Within 14 days after the filing of a Notice or Order converting a case to Chapter 7 from any other chapter, the debtor shall file new lists, statements and schedules, except that Schedule C, Property Claimed as Exempt, may be filed at the discretion of the debtor.

1017-2. Dismissal or Suspension – Case or Proceedings

(a) Certificate of Compliance. In a voluntary case under Chapter 7 or Chapter 13, the debtor may file a “Certificate of Compliance” stating exactly: “All of the information required by 11 U.S.C. § 521(a)(1) was filed within 45 days of the petition.” This Certificate shall be served on the trustee and on the U.S. Trustee.

(b) Prima Facie Effect. A Certificate of Compliance filed in accordance with this rule shall be prima facie evidence that the information required by 11 U.S.C. § 521(a)(1) was filed within 45 days of the petition.

(c) Request for Order of Dismissal. A request for an order of dismissal under 11 U.S.C. § 521(i)(2):

(1) shall be by motion in accordance with LBR 9013-1;

(2) may be heard on an expedited basis as contemplated in 11 U.S.C. § 521(i)(2) only if:

(A) no Certificate of Compliance was filed by the debtor; and

(B) a proper request for expedited relief is filed under LBR 9075-1.

(d) Request by Debtor to Dismiss Chapter 13 Case. Dismissal by the debtor of a Chapter 13 case under 11 U.S.C. § 1307(b) shall be by motion with notice to the Chapter 13 Trustee, the United States Trustee and to all creditors. No hearing will be scheduled. The Clerk shall enter an order of dismissal.

PART II

OFFICERS AND ADMINISTRATION, NOTICES, MEETINGS, EXAMINATIONS, ELECTIONS, ATTORNEYS AND ACCOUNTANTS

2002-1. Notice to Creditors and Other Interested Parties

(a) Notice of Meeting of Creditors When Schedules and/or Creditor List Are Filed Subsequent to the Petition. If the list required by Fed. R. Bankr. P. 1007 is not filed, does not conform to Appendix A (located on the court's website at www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms), or is amended to add creditors after the filing of the petition, the debtor shall mail a copy of the 11 U.S.C. § 341 meeting of creditors notice issued by the court to all entities on the List of Creditors or if amended, all entities not on the original List of Creditors within 7 days of the filing of the list or amendment. The debtor shall then file a certificate of mailing pursuant to LBR 9013-3.

(b) Notice to the State of Tennessee. Notice to the State of Tennessee, its agencies and departments, shall be accomplished by notice to the specific agency and to the Tennessee Attorney General's Office at the addresses posted on the court's website at www.tnmb.uscourts.gov>Court Business/Rule 5003 Registry.

(c) Publication of Notices of Summaries of Trustees' Final Reports. In lieu of notice by mail, the Clerk may publish notices of summaries of trustees' final reports on the court's website (www.tnmb.uscourts.gov). In each case, the Clerk shall issue a one-page Notice of Publication of the Summary of Trustee's Final Report to the debtor and all creditors containing the web address of the trustee's final report and the court's mailing address and telephone number which may be used to request free copies.

(d) Electronic Service of Filed Documents. Transmission of the Notice of Electronic Filing generated by CM/ECF shall constitute service of the electronically filed document on persons registered as Electronic Filers. *See* Administrative Procedures for Electronic Case Filing regarding the effect of registration as a Filer on the CM/ECF system.

(1) A certificate of service must be filed with respect to all electronically filed documents stating that service was made upon Filers through CM/ECF and further stating how service was accomplished on any entity not served through CM/ECF.

(2) Initial documents, such as a complaint and summons in an adversary proceeding or a motion commencing a contested matter under FED. R. BANKR. P. 9014, must be served in accordance with Rule 7004 of the Federal Rules of Bankruptcy Procedure and not through CM/ECF.

2002-2. Notice to United States or Federal Agency

Notice addresses for the United States Trustee, the Internal Revenue Service and the United States Securities and Exchange Commission are posted on the court's website at <www.tnmb.uscourts.gov> Court Business/Rule 5003 Registry.

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. The trustee or the United States Trustee may file 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.

(b) Notice of Meeting of Creditors Rescheduled upon Debtor's Request or After Dismissal. When the debtor's case has been dismissed and the dismissal is subsequently set aside, or if a meeting of creditors is rescheduled upon request of the debtor, the debtor shall obtain another date for the meeting of creditors from the United States Trustee or from the Chapter 13 trustee in Chapter 13 cases, and the debtor shall give notice of the rescheduled meeting to the trustee, the United States Trustee, all creditors and all parties in interest no later than 7 days after obtaining the rescheduled meeting date, and shall file a certificate of service in accordance with LBR 9013-3.

(c) Prisoners. Motions and orders to produce prisoners for an 11 U.S.C. § 341 meeting of creditors must be filed at least 14 days before the scheduled meeting.

(d) Video Presentation. In all Chapter 7, 12, and 13 cases in which the debtor is an individual, the debtor shall attend the showing of a video presentation at the meeting of creditors. This requirement shall not apply to debtors whose meetings of creditors are conducted by interrogatories.

(e) Holding Open Chapter 13 Meeting of Creditors. In Chapter 13 cases, the standing Chapter 13 trustee, United States Trustee or any designated presiding officer approved by the United States Trustee may hold open a meeting of creditors for purposes of 11 U.S.C. § 1308 by following these procedures:

(1) Announcement. A public announcement shall be made at the meeting of creditors stating the meeting of creditors is held open and stating the date the hold open period ends.

(2) CM/ECF Docket Entry. An appropriate entry shall be made on the CM/ECF docket indicating the meeting of creditors is held open and stating the date the hold open period ends.

2004-1. Depositions and Examinations

(a) Issuance of Order. Upon request of any party in interest for the examination of any entity pursuant to FED. R. BANKR. P. 2004, the Clerk is authorized to issue an order directing the examination pursuant to FED. R. BANKR. P. 2004.

(b) Form of Examination. Upon the request of any party in interest in accordance with this rule, a FED. R. BANKR. P. 2004 examination may be conducted in any manner consistent with FED. R. CIV. P. 30, 31, 33 or 34 to the extent not inconsistent with FED. R. BANKR. P. 2004.

2007.2-1. Appointment of a Patient Care Ombudsman in a Health Care Business Case

If the debtor in a case under Chapter 7, 9, or 11 is a health care business, the debtor shall, at the time of the petition, separately file a motion to determine whether appointment of a patient care ombudsman is necessary pursuant to 11 U.S.C. § 333(a).

2014-1. Employment of Professionals

Upon the filing of a motion for employment of a professional by the debtor, the trustee, or a committee, notice of the motion shall be given by the movant in accordance with LBR 9013-1 to the debtor, the debtor's attorney, the trustee, the trustee's attorney, the United States Trustee, all secured claim holders, any committee appointed and counsel for such committee, the 10 largest unsecured creditors if no unsecured creditors committee has been appointed, and any party in interest who has filed a written request for notices.

2015-2. Chapter 11 Trustee or Debtor-in-Possession Duties

(a) Pre-confirmation Financial Reports. In Chapter 11 cases without a confirmed plan, the trustee or debtor in possession shall file and transmit to the United States Trustee a written report of the financial condition of the estate for the previous month, on or before the 15th day of each month.

(b) Confirmed Chapter 11 Cases. In Chapter 11 cases with a confirmed plan and until entry of a final decree closing the case, the reorganized debtor shall file and transmit to the United States Trustee a Chapter 11 Post-Confirmation Quarterly Report in the form located on the court's website at <www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Excel Format> Appendix I, which shall be due on or before April 30, July 31, October 31, and January 31.

(c) Reopened Cases. In Chapter 11 cases with an entered final decree, if the case is reopened, the reorganized debtor shall file and transmit to the United States Trustee a statement of disbursements made during the prior month, on or before the 15th day of each month, until the case is closed by order of the Court.

2015-3. Trustees - Reports and Dispositions of Records

In compliance with 11 U.S.C. § 704(8), the report and summary of operations required to be filed with any governmental unit charged with responsibility for collection or determination of any tax arising out of such operation shall be forwarded to the IRS MDP and the Tennessee Attorney General's Office at the addresses found at www.tnmb.uscourts.gov>Court Business>Rule 5003 Registry.

2016-1. Compensation of Professionals

Except as provided by FED.R.BANKR.P 3002.1, any professional or other entity seeking fees, compensation or reimbursement of expenses from property of the estate shall file and serve a motion and a notice in accordance with LBR 9013-1 on the debtor, the debtor's attorney, the trustee, the trustee's attorney, the United States Trustee, all secured claim holders, any committee appointed and counsel for such committee, the 10 largest unsecured creditors if no unsecured creditors committee has been appointed, and any party in interest who has filed a written request for notices. When the request for fees, compensation and expenses exceeds \$25,000, the applicant shall submit time and expense detail electronically to the United States Trustee in a format compatible with the United States Trustee's software.

2081-1. Chapter 11 – General

First-Day Motions

(a) Definition. A first-day motion is any motion or application in a Chapter 11 case that requests a hearing or the entry of an order with less than 7 days' notice and that is filed prior to the earlier of the formation of the creditors' committee or the meeting of creditors, including, but not limited to, the following:

- (1) motion for joint administration;
- (2) motion for use of cash collateral;
- (3) motion for post-petition financing;
- (4) motion to pay prepetition employee wage or benefit claims;
- (5) motion to limit notice generally;
- (6) motion to provide adequate assurance to utilities;
- (7) motion to pay prepetition trust fund taxes;
- (8) motion to honor prepetition obligations to customers;
- (9) motion to extend deadline to file schedules and statements;

(10) motion to vary Office of the United States Trustee financial requirements, such as motion to authorize maintenance of existing bank accounts, existing business forms, cash management system, and investment procedures; and

(11) motion for authority to pay prepetition claims of “critical” vendors or suppliers.

(b) Consultation with and Special Notice to United States Trustee.

(1) The movant shall consult with the Office of the United States Trustee regarding suitable dates and times for hearing any first-day motion.

(2) In addition to the service required by the Federal Rules of Bankruptcy Procedure or these Local Rules, the movant shall provide the Office of the United States Trustee at least 24 hours’ notice of the hearing date and time for a first-day motion—including a copy of the motion and proposed order.

(c) Notice of Hearing on First-Day Motions. The movant shall immediately serve notice of the hearing on any first-day motions on the Office of the United States Trustee, the 20 largest unsecured creditors, all secured creditors, any committees, known counsel, and other affected parties—for example, utilities, unions or governmental entities. Notice shall be given in a manner that ensures same day delivery, such as by hand delivery, telephone, facsimile or email, to the extent practicable.

(d) Certificate of Service. LBR 9013-3 shall apply to first-day motions except that the responsible party shall file the certificate of service at or before the commencement of the hearing.

(e) Joint Administration. In affiliated cases, a motion for joint administration need only be filed in the case under which all debtors will be administered. Notice of the motion shall be served on all affected parties in all cases.

(f) Conspicuousness Requirements for First-Day Motions, Proposed Orders and Agreed Orders. In any motion, proposed order or agreed order for use of cash collateral pursuant to 11 U.S.C. § 363 or any motion, proposed order or agreed order for post-petition financing pursuant to 11 U.S.C. § 364, the first or second paragraph of the motion or the first page of the proposed order shall conspicuously state whether any of the following kinds of relief is sought or granted and shall identify by paragraph or page number where that relief appears:

(1) Granting a prepetition creditor a lien or security interest in post-petition assets in which the creditor does not have a security interest by virtue of its prepetition security agreement, other than replacement liens in the same kind of collateral the creditor had prepetition;

(2) Resolving a dispute concerning the validity, priority or extent of a prepetition lien or security interest or the amount of a prepetition claim;

(3) Findings, conclusions or holdings as to the amount of a debt or the validity, priority or extent of a lien or security interest that purport to affect the rights of any entity other than the debtor-in-possession and the creditor;

(4) Release, waiver or abandonment of claims, setoff rights, surcharge rights, avoidance actions and subordination actions against a creditor, or findings or stipulations that no such rights exist, that purport to affect the rights of any entity other than the debtor-in-possession and the creditor;

(5) Granting of liens or security interests against rights or actions arising under 11 U.S.C. §§ 544, 545, 547, 548 or 549;

(6) The use of funds derived from post-petition financing to pay all or part of a prepetition secured debt, or a provision that deems prepetition secured debt to be post-petition secured debt, other than as permitted by 11 U.S.C. § 552(b);

(7) Granting surcharge or “carve-out” rights to professionals or any restrictions (other than court approval) on the surcharge or carve-out rights granted to professionals—for example, a restriction on investigation or pursuit of causes of action against a lender or secured creditor;

(8) Payment of prepetition wages, salary or other compensation to any employee in excess of the Code’s priority amount, payment of any severance or vacation pay earned prepetition, or payment of any prepetition wages, salaries, commissions, benefits or consulting fees to an insider or equity holder; and

(9) Priming any secured creditor under 11 U.S.C. § 364(d) without that creditor’s consent.

(g) Proposed Order. Every first-day motion shall include as an exhibit the proposed order the movant will submit in the event the motion is unopposed.

(h) Applicability of LBR 9075-1. Local Rule 9075-1 shall apply to first-day motions except the order and content of paragraphs specified by LBR 9075-1(b) may be altered to comply with this rule.

2082-1. Chapter 12 – General

(a) Filing of Chapter 12 Plan. If a Chapter 12 debtor elects to file a plan after the filing of the petition pursuant to FED. R. BANKR. P. 3015, the debtor must serve the proposed plan or a complete summary of the proposed plan on all creditors, all equity security holders, any party in interest who has requested notice, the Chapter 12 trustee and the United States Trustee and file a certificate of service pursuant to LBR 9013-3.

(b) Motions Modifying Chapter 12 Plans. In addition to the requirements of LBR 9013-1, any motion or agreed order that amends or modifies a proposed or confirmed Chapter 12 plan must include a verified comparative budget and a statement of impact on creditors in the form of

located on the court's website at www.tnmb.uscourts.gov>Forms>Local Forms>Appendix B. This provision includes but is not limited to motions and agreed orders to:

- (1) suspend payments;
- (2) incur credit; or
- (3) change the amount or timing of any payment.

(c) Reimbursement for Chapter 12 Notices. Debtors' attorneys will be reimbursed for actual expenses incurred in mailing notices in an amount not to exceed \$1.00 per notice (\$5.00 for certified mail), but only upon receipt by the trustee of the certificate of service filed pursuant to LBR 9013-3.

2090-1. Attorneys - Admission to Practice

(a) Appearance before the court. Except as set forth below, appearance before the court on behalf of any entity may be made only by an attorney admitted to practice before the United States District Court for the Middle District of Tennessee.

(b) Motions for Permission to Appear *Pro Hac Vice*.

(1) Any attorney not admitted to practice before the United States District Court for the Middle District of Tennessee shall file a motion and proposed order with the United States Bankruptcy Court for the Middle District of Tennessee for permission to appear *pro hac vice*. The motion must be specific to an identified bankruptcy case or proceeding. The motion must be filed no later than the first appearance or the first paper filed upon which the attorney's name appears. The motion must include a certificate of good standing from another United States District Court.

(2) Any attorney admitted to appear *pro hac vice* who does not have a principal law office in the State of Tennessee shall obtain counsel ("Local Counsel") who is admitted to practice in the United States District Court for the Middle District of Tennessee and who has a principal law office in Tennessee.

(3) Local Counsel shall file a notice of appearance that identifies the party represented. Local Counsel assumes all duties and responsibilities of an attorney for that party. Local Counsel shall sign all documents filed on behalf of a represented party. Any notice required by statute, rule, local rule or order may be satisfied by giving notice to Local Counsel.

(4) Any attorney representing the United States Government, or any agency thereof, or the State of Tennessee may appear and participate in particular cases or proceedings in the attorney's official capacity if the attorney is a member in good standing of the bar of a District Court of the United States.

2090-2. Attorneys - Discipline and Disbarment

(a) Enforcement of Standards of Professional Conduct. The standards of professional conduct for any attorney who appears for any purpose shall include the current rules of professional conduct adopted by the Supreme Court of the State of Tennessee.

(b) Disbarment and Discipline.

(1) Any attorney who appears for any purpose submits to the discipline of this court. A violation of any of the rules of professional conduct in connection with any matter pending before this court subjects the offending attorney to appropriate disciplinary action.

(2) When an attorney has been disbarred or suspended from the practice of law by the Disciplinary Board of the Supreme Court of Tennessee or by the court or disciplinary bodies of any state or federal jurisdiction, or has been convicted of any crime involving moral turpitude, the attorney shall be suspended from practice before this court.

2091-1. Attorneys – Withdrawals

(a) In General. When an attorney has appeared on behalf of any entity in a case or proceeding, the entity may not thereafter appear *pro se* or by a different attorney in that case or proceeding except upon order of the court.

(b) Procedure for Withdrawal or Substitution of Attorney. An attorney may withdraw or another attorney may be substituted in a case or proceeding by filing a motion to withdraw or substitute counsel together with a proposed order. Notice shall be given to the client of the withdrawing counsel, to the attorney being replaced (if substituting counsel), the debtor, the United States Trustee, any trustee, any committees which may have been appointed, and any party who has requested notice.

PART III
CLAIMS AND DISTRIBUTIONS TO CREDITORS
AND EQUITY INTEREST HOLDERS; PLANS

3001-1. Claims and Equity Security Interests – General

(a) Proof of Security Interest. In a Chapter 7, 12 or 13 case, when a claim, or an interest in property securing the claim, is based on a writing, the creditor or the creditor's authorized agent shall provide a copy of the writing to the trustee prior to the meeting of creditors. If perfection of a security interest is claimed, the creditor shall provide proof of perfection and date of perfection to the trustee prior to the meeting of creditors – including, with respect to Motor Vehicles, proof of the date on which application was made for notation of a lien on the certificate of title and proof of the filing of any temporary lien. Any creditor asserting a security interest in property of the estate or property of the debtor shall submit to the trustee a statement of the approximate amount of debt secured by each lien.

(b) Failure to Comply. If a creditor fails to provide any information required in subsection (a) and the creditor fails to cure noncompliance within 21 days after written notice of noncompliance from the trustee:

(1) the court may, after notice and hearing, take either or both of the following actions:

(a) preclude the holder from presenting the omitted information, in any form, as evidence in any contested matter or adversary proceeding in the case, unless the court determines that the failure was substantially justified or is harmless; or

(b) award other appropriate relief, including reasonable expenses and attorney's fees caused by the failure; and

(2) there shall be a presumption that a bona fide dispute exists for purposes of sale pursuant to 11 U.S.C. § 363(f)(4).

(c) Claims Treated as “Long Term” Debts. In a Chapter 12 or 13 case, the holder of a secured claim on real estate or a motor vehicle, shall attach to the proof of claim a statement of the contractual monthly payment due for the month following the filing of the petition.

(d) Trustee Not Required to Provide Notice of Final Cure Payment When Trustee is Not the Disbursing Agent. The Chapter 13 trustee is not required to file or serve any notice of final cure payment under Fed. R. Bankr. P. 3002.1(f) in connection with any claim for which the Chapter 13 trustee is not the disbursing agent. This subsection shall not affect the ability of the debtor to file and serve any such notice.

3007-1. Claims – Objections

(a) LBR 9013-1 is modified as follows with respect to objections to claims:

(1) The notice of objection to claim shall provide a 30-day period for the filing of a response.

(2) Every objection to claim and notice shall be accompanied by an affidavit or declaration under penalty of perjury that states with specificity the basis for the objection.

(3) Every objection to a claim and notice shall identify the claim by claim number assigned on the court's claims register.

(b) In a Chapter 12 or 13 case, the trustee may partly or fully withhold distributions on account of any claim to which an objection has been filed until such objection is resolved.

3011-1. Unclaimed Funds in Chapter 7, Chapter 12 and Chapter 13 Cases

(a) Motions to Withdraw Unclaimed Funds. A motion to withdraw unclaimed funds shall be in the form located on the court's website at www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix C.

(b) Compliance with LBR 9013-1. A motion to withdraw unclaimed funds shall be filed and served in accordance with LBR 9013-1 on the debtor, the debtor's attorney, the trustee, the United States Trustee, the United States Attorney and the creditor or payee for whom the funds were deposited.

3015-1. Chapter 13 – Plan

(a) Form. All Chapter 13 plans filed in this district shall substantially conform to the Model Plan in Appendix D. Provisions not otherwise included in the Model Plan or deviating from it are effective only if they are included in a section of the Model Plan designated for nonstandard provisions and are also identified in accordance with any other requirements of the Model Plan form.

(b) Service of the Plan When Special Address or Method of Service is Required. When the Chapter 13 plan includes motions or other contested matters that require special notice or service under FED. R. BANKR. P. 9014 or 7004, for example, notice to a corporation or service on an insured depository institution, the debtor shall: (1) provide the required special address on the list required by LBR 1007 and, (2) give notice or make service and file a certificate of service pursuant to LBR 9013-3 when a method of notice or service is required other than first class mail.

(c) Filing of a Chapter 13 Plan. If a Chapter 13 debtor elects to file a plan after the filing of the petition pursuant to FED. R. BANKR. P. 3015, the debtor must serve the proposed plan or a complete summary of the proposed plan on all creditors, all equity security holders, any party in interest who has requested notice, the Chapter 13 trustee and the United States Trustee and file a certificate of service pursuant to LBR 9013-3.

(d) Objection to Confirmation of Chapter 13 Plan. Any written objection to confirmation of a chapter 13 plan must be filed at least 5 calendar days before the meeting of

creditors. An oral objection may be raised by stating the objection on the record at the meeting of creditors.

3015-2. Chapter 13 - Amendments to Plans

(a) In General. In addition to the requirements of LBR 9013-1, any motion filed by a debtor that modifies a confirmed Chapter 13 plan must include a verified comparative budget and statement of impact on creditors in the form located on the court's website at www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix B. This provision includes but is not limited to motions and agreed orders to:

- (1) suspend payments;
- (2) incur credit; or
- (3) change the amount or timing of any payment.

(b) Proposed Order. Any proposed order that modifies a confirmed Chapter 13 plan must state the terms of the modification as indicated in the motion to modify.

(c) Filing of a Chapter 13 Plan. If a Chapter 13 debtor elects to file a plan after the filing of the petition pursuant to FED. R. BANKR. P. 3015, the debtor must serve the proposed plan or a complete summary of the proposed plan on all creditors, all equity security holders, any party in interest who has requested notice, the Chapter 13 trustee and the United States Trustee and file a certificate of service pursuant to LBR 9013-3.

3016-2. Disclosure Statement – General

(a) Notice Requirements. At the time of filing a Chapter 9 or Chapter 11 plan and disclosure statement the proponent of the plan shall file a proposed order and notice of hearing with respect to the adequacy of the disclosure statement. The proponent of the plan shall serve the order and notice for hearing on the adequacy of the disclosure statement, the proposed disclosure statement and the plan on the debtor, the debtor's attorney, the United States Trustee, any trustee and trustee's attorney, any committee and counsel for the committee, all secured creditors, the 10 largest unsecured creditors if no committee is serving, the Internal Revenue Service, the Securities and Exchange Commission (if debtor is a corporation or limited partnership) and any party in interest that requests in writing a copy of the disclosure statement or plan.

(b) Service of Order Approving the Disclosure Statement. The proponent of the plan shall give the notice required by FED. R. BANKR. P. 3017(d).

3017-2. Disclosure Statement – Small Business Cases

In a small business Chapter 11 case, notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given by the plan proponent and shall be combined with notice of the hearing on confirmation of the plan.

3020-1. Chapter 11 – Confirmation

The proponent of the plan shall give the notice required by FED. R. BANKR. P. 3020(c).

3022-1. Final Report/Decree (Ch. 11)

With the motion for a final decree pursuant to FED. R. BANKR. P. 3022, the debtor shall file a final report certifying the disbursements made under the plan and comply with LBR 9013-1.

3070-1. Chapter 13 - Payments.

(a) Preconfirmation Payments

(1) Debtors shall make all payments required by 11 U.S.C. § 1326(a)(1)(A), (B) and (C) to the trustee in cases filed under or converted to Chapter 13.

(2) Pending confirmation of a plan, the trustee shall make payments required by 11 U.S.C. § 1326(a)(1)(B) and (C) in the amount specified in the debtor's Chapter 13 plan, absent an order under 11 U.S.C. § 1326(a)(3).

(3) The trustee shall make payments under subparagraph (2) above as soon as practicable after the filing of a proof of claim by the creditor to whom payment is due.

(4) The trustee may assess an administrative fee for effecting payments required by subparagraph (2) equal to the percentage fee established by the Attorney General pursuant to 28 U.S.C. § 586(e)(1)(B).

(b) Reimbursement for Chapter 13 Notices. Debtors' attorneys will be reimbursed for actual expenses incurred in mailing notices in an amount not to exceed \$1.00 per notice (\$5.00 for certified mail), but only upon receipt by the trustee of the certificate of service filed pursuant to LBR 9013-3.

PART IV
THE DEBTOR: DUTIES AND BENEFITS

4001-1. Automatic Stay – Relief from

(a) Limitation on Combined Motions. A motion for relief from the 11 U.S.C. § 362(a) stay shall not contain additional requests for relief, except for abandonment and/or adequate protection regarding the same asset. When other requests for relief are impermissibly combined with a motion for relief from the 11 U.S.C. § 362(a) stay, the motion for stay relief (and any related abandonment and/or adequate protection) will be heard. The impermissible requests for relief will only be considered when separately filed.

(b) Procedure. Procedure for prosecuting and responding to a request for relief from the stay is controlled by a Notice of Preliminary Hearing and Prehearing Order issued by the Clerk after the filing of the motion.

(c) Codebtor Stay. Any motion for relief from the codebtor stay under 11 U.S.C. § 1301 shall be made by separate motion in compliance with LBR 9013-1.

(d) Continuance of Preliminary or Final Hearing. The agreement of all parties to continue the preliminary or final hearing of a request for relief from the stay excuses the attendance of counsel if a joint motion and agreed order to continue are filed on or before the second business day prior to the preliminary or final hearing. Otherwise, announcement of an agreement to continue may be made by counsel at the first call of the preliminary hearing docket.

Agreed orders continuing the preliminary hearing of a request for relief from the stay shall specify the date and time of the continued hearing, shall continue the stay in effect and include a certificate of service consistent with LBR 9013-3.

(e) Order Granting Relief from Automatic Stay. In Chapter 7, 12 and 13 cases, orders granting relief from the automatic stay in 11 U.S.C. § 362(a) must comply with the following provisions.

(1) Affected Collateral. Order must describe the real or personal property that is security for the movant's debt.

(2) Form of Order. The forms located on the court's website at www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix E shall be used when there is Affected Collateral and: (a) no opposition to the motion for stay relief was filed; (b) any filed opposition was withdrawn; or (c) any opposition was overruled by the court at the Scheduled Hearing.

(3) Abandonment by Trustee. If the motion for stay relief states that the Affected Collateral is burdensome or of inconsequential value to the estate, and the trustee does not oppose stay relief, then the forms located at the court's website at

<www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix E-3 or E-4 shall be used. Abandonment is only effective if the trustee approves the order for entry.

(4) FED. R. BANKR. P. 4001(a)(3) Stay. If the motion for stay relief requests that FED. R. BANKR. P. 4001(a)(3) not apply and there is no opposition to that request, then the forms located at the court's website at <www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix E-2 or E-4 shall be used.

(5) Agreed Orders. This LBR 4001-1(d) is not applicable when a motion for stay relief is resolved by agreed order.

(f) Agreed Order Granting Stay Relief and/or Abandonment.

(1) Any agreed order which grants stay relief and/or abandonment with respect to consumer debt when no motion is filed shall prominently display in bold text the following language: "ORDERED, Any objection to this agreed order must be filed within 14 days of the entry of the order."

(2) Pursuant to FED.R.BANKR.P. 4001(d)(4), the agreed order shall be served upon any party who has an interest in collateral or is jointly obligated.

(g) Agreed Order Granting Adequate Protection Payments. Any agreed order which includes provisions for adequate protection payments shall be filed as a Motion for Approval of Agreed Order consistent with Fed R. Bankr. P. 4001(d) and shall be filed pursuant to LBR 9013-1 with the notice period shortened to 14 days.

4002-1. Debtor - Duties

(a) Persons to Act When Debtor Is Not Natural Person. The natural persons occupying the following positions shall perform all acts required to be performed by the debtor and shall attend on behalf of the debtor any examinations, meetings or hearings unless the court orders otherwise:

(1) If the debtor is a corporation or limited liability company, the person serving as its chief executive officer (the person occupying the position of president, chief manager or comparable position is presumed to be chief executive officer);

(2) If the debtor is a partnership, each of the general partners;

(3) If the debtor is a small business debtor, the senior management personnel (the person(s) occupying the position(s) of chief financial officer, chief operations officer, and chief management officer or comparable positions are presumed to be the senior management personnel);

(4) If any corporate, limited liability company or partnership debtor deems the persons designated above inappropriate, prompt motion shall be made consistent with LBR 9013-1 for relief from this rule and for the designation of some other or additional natural person or persons;

(5) The natural person or persons who will perform acts required to be performed by the debtor shall be identified by name, title and address at the time of the commencement of the case in a voluntary case. In an involuntary case, the identification shall be filed no later than 14 days after entry of the order for relief.

(b) Domestic Support Obligations. With respect to each domestic support obligation, the debtor shall include on Official Form 106E/F the name, address and telephone number of the child support enforcement agency for the state in which each claim holder resides.

(c) Deposits for Rent Under 11 U.S.C. § 362(l). If a debtor files a certificate under 11 U.S.C. § 362(l)(1) with the petition, the deposit required by 11 U.S.C. § 362(l)(1)(B) shall be considered filed with the petition if tendered to the Clerk by close of the next business day after the filing of the petition. The deposit may only be tendered in the form of a cashier's check, money order, an Interest on Lawyers Trust Account check (IOLTA) or certified check made payable to the lessor (not the Clerk of the Court). The name and mailing address of the lessor shall be provided to the Clerk with tender of the deposit.

(d) Certificate of Payment of Domestic Support Obligations. Not later than 28 days after completion of payments under a Chapter 12 or Chapter 13 plan, the debtor shall file the certificate required by 11 U.S.C. §§ 1228(a) or 1328(a).

LBR 4003-2. Lien Avoidance

(a) Motion. Except when provided for in a Chapter 13 Plan, a motion to avoid a lien under 11 U.S.C. § 522(f) must provide:

(1) the identity of the creditor whose lien is to be avoided—the creditor shall be listed in the title of the motion;

(2) a description of the property subject to the lien;

(3) the balance of debt secured by the creditor's lien;

(4) the fair market value of the property;

(5) the identity of any other holder of a lien encumbering the property and the amount due on such lien;

(6) the specific statutory authority for the claimed exemption; and

(7) the amount claimed exempt.

(b) Procedure. Movant shall comply with LBR 9013-1.

(c) Order. A motion to avoid a lien under 11 U.S.C. § 522(f) must be accompanied by a proposed order form located at the court's website at www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix F.

4070-1. Insurance

(a) Proof of Insurance. When the debtor retains a motor vehicle which is subject to the lien of a creditor holding a secured claim, proof of insurance against physical damage and loss must be furnished to the trustee and the creditor at or before the 11 U.S.C. § 341 meeting. Failure to furnish proof of insurance shall be presumed to mean no insurance is in effect. The proof of insurance must state that coverage will continue for at least 60 days from the date of the 11 U.S.C. § 341 meeting. On or before the date the insurance coverage lapses, proof of renewal or new insurance coverage must be provided to the trustee and the creditor.

(b) Definitions.

(1) "Motor Vehicle" shall include every item of transportation which is subject to registration pursuant to TENN. CODE ANN. § 55-3-101; provided, however, that the items of transportation excluded from the registration requirements in TENN. CODE ANN. §§ 55-3-101(a)(1) through (8) are not excluded for purposes of this rule.

(2) "Proof of Insurance" shall mean a certificate of insurance or such other written evidence of sufficient reliability from the insurance carrier stating the amounts and types of coverage, a notation of the secured party as loss payee, and the time period for which coverage exists.

(c) Lapse of Insurance. If, during the pendency of a case, insurance lapses on any motor vehicle subject to the provisions of this rule:

(1) A creditor with an allowed claim secured by the motor vehicle shall notify, in writing, the debtor and the debtor's attorney of the lapse of insurance. Service of the notice shall be in the manner specified in FED. R. BANKR. P. 9014.

(2) The debtor shall be enjoined from using the motor vehicle as long as the motor vehicle remains uninsured.

(3) If the debtor fails to provide proof of re-insurance to the creditor within 3 business days following delivery of the notice of lapse, the debtor shall surrender the motor vehicle to the creditor or the creditor may take possession of the motor vehicle securing its claim and hold the same pending proof of insurance by the debtor. For purposes of this rule, delivery of notice is deemed complete 3 days after mailing.

(4) Within 7 days after taking possession of a motor vehicle based on lapse of insurance, the creditor shall file a motion for relief from the 11 U.S.C. § 362 stay.

(d) Second Lapse of Insurance. In the event insurance on a motor vehicle subject to this rule lapses twice during the pendency of a case, the court may, upon the filing of a motion accompanied by an affidavit evidencing compliance by the creditor with this rule and evidencing the previous lapse of insurance, grant the creditor relief, including relief from the stay of 11 U.S.C. § 362, without further hearing. The creditor shall include a proposed order granting the requested relief.

PART V COURTS AND CLERKS

5005-2. Filing Papers - Number of Copies

In any non-electronic filing with the Clerk, only the original of any paper document needs to be filed. If any filed paper document is to be returned, it must be physically retrieved by the filer, or a self-addressed, stamped envelope must be provided.

5005-3. Filing Papers - Size of Papers

In any non-electronic filing with the Clerk, all papers for filing shall be 8 ½" x 11". All papers shall be clearly legible in a type no smaller than 10 point and all pages numbered at the bottom. All papers shall include names, addresses, phone numbers, facsimile numbers and e-mail addresses beneath all signature lines.

5011-2. Withdrawal of Reference

(a) Where to File Motion to Withdraw the Reference. Motions for withdrawal of the reference of a case or proceeding, in whole or in part, pursuant to 28 U.S.C. § 157(d) and District Court Administrative Order 28-7, shall be filed with the Clerk of the Bankruptcy Court.

(b) Contents of Motion to Withdraw the Reference. The motion shall conspicuously state that "RELIEF IS SOUGHT FROM A UNITED STATES DISTRICT JUDGE."

(c) Documents Filed after the Motion to Withdraw the Reference. Except for a motion for a stay pending the outcome of the motion to withdraw the reference, all documents pertaining to the motion to withdraw the reference shall be filed with the Clerk of the District Court. All documents relating to other aspects of the bankruptcy case or proceeding shall be filed with the Clerk of the Bankruptcy Court.

5072-1. Courtroom Decorum

The following procedures apply during all hearings:

- (1) Attorneys shall stand behind the lectern when speaking and use the microphones.
- (2) There shall be no oral confrontation or colloquy between opposing attorneys.
- (3) All counsel, parties and witnesses shall be formally addressed by their surnames.
- (4) During the testimony of a witness, attorneys shall not approach the witness, courtroom deputy or the electronic court reporter without court approval.
- (5) Submission and presentation of evidence is governed by the Electronic Evidence Procedures ("EEP"). When the EEP is not applicable, documentary exhibits shall be prepared in a

sufficient number for all participants including—the witness, the court, opposing counsel and the examining attorney.

(6) When a witness takes the stand, background information concerning the witness and the connection of the witness to the litigation shall be read or offered in writing, then acknowledged by the witness. The second question should address the issues in controversy.

5073-1. Photography, Recording Devices and Broadcasting

District Court Administrative Order 156-2 applies to the floors occupied by the bankruptcy court in the Customs House.

5081-1. Fees - Form of Payment

(a) Transactions Requiring the Payment of Money. Any over-the-counter transaction requiring the payment of money to the Clerk shall be conducted no later than 4:00 P.M. unless other arrangements are made in advance with the Clerk or Chief Deputy.

(b) Over-the-Counter Forms of Payment. The Clerk will accept the following forms of payment:

- (1) cash – exact change only;
- (2) cashier’s check;
- (3) money order; or
- (4) checks from attorneys or businesses (but not from a debtor).

No personal checks will be accepted. Checks shall be made payable to “Clerk, U.S. Bankruptcy Court.”

PART VI COLLECTION AND LIQUIDATION OF THE ESTATE

6004-1. Sale of Estate Property - Statement of Sale

The statement of sale of estate property conducted under FED. R. BANKR. P. 6004 shall contain the following information for each sale type:

	INFORMATION	SALE TYPE
a.	Itemized statement of property sold	All sales
b.	List of bidders	On-site auction ¹
c.	Number of participating bidders	On-line auction ²
d.	Name of each buyer	Private sale ³ On-site auction On-line auction
e.	Price received for each item or lot	All sales
f.	Date(s) of sale	Private sale On-site auction Securities sale ⁴
g.	Time & place of sale	On-site auction
h.	Opening & closing dates & time of sale	On-line auction
i.	Calculation of compensation allowable under appointment order	All sales
j.	Copies of sale advertisements, summary listing of advertising expenses, itemized mailing costs and expenses	On-site auction On-line auction
k.	All other costs and expenses, itemized	All sales

¹ With or without simultaneous telephonic or On-line bids.

² Accepts bids only via the Internet.

³ With or without assistance of an agent.

⁴ Requires a registered broker dealer.

6005-1. Auctioneers & Real Estate Agents

(a) Qualifications. Applications to employ auctioneers (including on-line) or real estate agents shall detail the auctioneer's or agent's qualifications, including any professional licenses held.

(b) Compensation of Auctioneers. An auctioneer's commission may be deducted from the gross proceeds of sale and/or added to the sale price as a buyer's premium. Except upon motion filed pursuant to LBR 9013-1, compensation shall not exceed:

(1) Ten percent (10%) of gross proceeds for real property and vehicles—including cars, trucks, trailers, all-terrain vehicles, boats, aircraft, farm machinery and implements, and earth moving equipment; or

(2) Twenty-five percent (25%) of the first \$40,000 of gross proceeds for other personal property and fifteen percent (15%) thereafter.

(c) Compensation of Real Estate Agents. Compensation of a real estate agent shall not exceed six percent (6%) of gross proceeds except upon motion filed pursuant to LBR 9013-1. Expenses of a real estate agent shall only be reimbursed upon motion filed pursuant to LBR 9013-1.

(d) Retrieval of Sale Items. Auctioneers and agents who ship sale items at buyers' expense must allow buyers to arrange for retrieval of sale items without charge.

(e) Reimbursement of Credit Card Fees. Auctioneers and agents who accept payment by credit card may charge a buyer's premium to offset credit card processing fees only if that charge is disclosed in the application to employ and in the notice of sale.

6007-1. Abandonment

(a) No Asset Notice. In cases in which a no asset notice is issued and not superseded by an asset notice, the trustee is relieved of the requirement of giving notice of abandonment or disposition of property under FED. R. BANKR. P. 6007(a). Such abandonment shall be effective 14 days after the notice unless an objection is filed, in which case a hearing will be set.

(b) Property Value. In a Chapter 7, 12 or 13 case, the trustee or debtor is relieved of the notice requirement imposed by FED. R. BANKR. P. 6007(a) when the proposed abandonment relates to property with a net value to the estate of less than \$1,000 per item and less than \$2,500 in the aggregate.

6070-1. Tax Returns or Transcripts

(a) Providing or filing tax returns or transcripts. Any tax return or transcript provided or filed under 11 U.S.C. § 521(e) or (f) shall be:

- (1) provided or filed electronically in a format consistent with ECF Procedure 9; and
- (2) transmitted electronically to the United States Trustee at the time it is otherwise provided or filed. The e-mail address for the United States Trustee for the Middle District of Tennessee is ustpreion08.na.ecf@usdoj.gov.

(b) Request to Inspect or Copy. Any request for a tax return or transcript or to inspect or copy a tax return or transcript under 11 U.S.C. § 521(e), (f) or (g):

- (1) shall be filed electronically;
- (2) shall be served on the debtor and on the debtor's attorney;
- (3) shall identify the individual who will be doing the inspecting or copying;

(4) is invalid unless the request includes a working e-mail address for the requesting party; and

(5) is invalid unless the request includes this signed statement:

“[The requesting party] will maintain the confidentiality of any requested, inspected or copied tax return (or transcript) consistent with § 315(c) of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005.”

PART VII ADVERSARY PROCEEDINGS

7001-1. Adversary Proceedings

(a) Turnover of Money or Property. A complaint for turnover of a Motor Vehicle (as defined in LBR 4070-1(b)(1)) shall include as an exhibit Proof of Insurance (as defined in LBR 4070(1)(b)(2)).

(b) Turnover Complaints in Chapter 13 Cases. A complaint for turnover of a Motor Vehicle or funds of the debtor in a Chapter 13 case (the “Expedited Complaint”) may be scheduled for an expedited preliminary hearing if the complaint includes information substantially in compliance with LBR 9075-1.

(1) An Expedited Complaint filed before 4:00 P.M. on any Wednesday may be scheduled for expedited preliminary hearing no earlier than Wednesday of the following week.

(2) The attorney for the plaintiff (or the plaintiff, if *pro se*) shall provide immediate email, telephonic or facsimile notice of the hearing and transmit a copy of the complaint to the defendant, the attorney for the defendant (if known), the debtor, the debtor’s attorney, and the Chapter 13 Trustee by hand delivery, facsimile, overnight courier service, or email. The attorney for the plaintiff (or the plaintiff, if *pro se*) shall promptly file a certificate of service pursuant to LBR 9013-3.

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.

7007.1-1 Financial Disclosure by Corporate Attorney

FED. R. BANKR. P. 7007.1 shall apply to contested matters under FED. R. BANKR. P. 9014.

7056-1. Summary Judgment

(a) Statement of Undisputed Facts. To assist the court in ascertaining whether there are material facts in dispute, any motion for summary judgment made pursuant to FED. R. BANKR. P. 7056 shall be accompanied by a separate, concise statement of the material facts which the moving party contends are not disputed. Each fact shall be stated in a separate, numbered paragraph. Each fact shall be supported by specific citation to the record. After each paragraph, the word “response” shall be inserted and a blank space shall be provided reasonably calculated to enable the non-moving party to respond to the assertion that the fact is undisputed.

(b) Response to Statement of Facts. Any party opposing the motion for summary judgment must respond to each fact set forth by the movant by either (1) agreeing that the fact is undisputed; (2) agreeing that the fact is undisputed for the purpose of ruling on the motion for

summary judgment only; or (3) demonstrating that the fact is disputed. Each disputed fact must be supported by specific citation to the record. The response must be made on the document provided by the movant or on another document in which the non-movant has reproduced the facts and citations verbatim as set forth by the movant. In either case, the non-movant must make a response to each fact set forth by the movant immediately below each fact set forth by the movant. Such response shall be filed with the papers in opposition to the motion for summary judgment. In addition, the non-movant's response may contain a concise statement of any additional facts that the non-movant contends are material and disputed. Each such disputed fact shall be set forth in a separate, numbered paragraph with specific citations to the record supporting the contention that such fact is in dispute.

(c) Reply Statement. If the non-moving party has asserted additional facts, the moving party shall respond to these additional facts by filing a reply statement in the same manner and form as specified in sections (a) and (b) above. The reply of the moving party shall be filed within 14 days of the filing of the response of the non-moving party.

7067-1. Registry Funds

(a) Orders Directing Deposit. All orders for the deposit of registry funds shall contain the following:

- (1) the amount to be invested; and
- (2) full name of investor.

(b) Registry Funds Deposited With Clerk. Any funds deposited with the Clerk shall be deposited in the Court Registry Investment System (CRIS), a judiciary-wide investment pool of U.S. Treasury securities managed by the Administrative Office of the U.S. Courts.

(c) Orders Directing Disbursement. All orders directing disbursement of registry funds shall contain the following:

- (1) the name and address of each party receiving disbursement; and
- (2) the amount of payment to each party receiving disbursement.

(d) The Clerk will withhold disbursement(s) until the Clerk is provided taxpayer identification information.

(e) Registry Investment Fee. The Clerk is authorized and directed to deduct, for maintaining accounts in CRIS, a registry fee. The proper registry fee is determined on the basis of the rates published by the Director of the Administrative Office of the U.S. Courts as approved by the Judicial Conference.

PART VIII
Reserve

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.

9014-1. Contested Matters – Pretrial Disclosures and Court Filings

(a) General — This rule applies to any contested matter – whether arising as a result of an “if objection” motion under LBR 9013-1 followed by an objection being filed or as the result of any other motion set by the court for a hearing where a response is filed opposing the relief sought. The timing and necessity of initial disclosures are governed by this rule, and subsections (a), (d) and (f) of FED. R. BANKR. P. 7026 do not apply to such contested matters.

(b) 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.

(c) Response Deadline. In all contested matters not controlled by the “if objection” process under LBR 9013-1, unless an order or notice provides otherwise, any party in opposition to the relief requested shall file and serve a “response” or “objection” on or before the earlier of 21 days after service of the paper commencing the contested matter or 7 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. The court may enter an order granting the relief or may proceed with the hearing as scheduled despite the lack of a response. In the case of any contested matter set for hearing by the court and not governed by LBR 9013-1(a), the presence of movant’s counsel at the hearing is required unless an order has already been entered granting the relief at the time of the hearing.

(d) Pretrial Disclosures and Court Filings. Although various pretrial initial disclosures are not automatically required in contested matters pursuant to FED. R. BANKR. P. 7026, either the movant or the respondent in any contested matter may invoke certain initial disclosure requirements pursuant to subsection (2) below. Regardless of whether the initial disclosure requirements are invoked by either party, all parties must make certain pretrial filings and exchange certain information in advance of the hearing as set forth in subsection (1) below.

(1) Pretrial Court Filings. In addition to the initial disclosures that may be invoked by paragraph (2) below, and regardless of whether such pretrial disclosure process has been invoked, every party shall file with the Court and provide to every other party by noon two 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. (For any matter to be heard in the Nashville Division, the exhibits shall be filed and exchanged utilizing the court’s Electronic Evidence Submission Application pursuant to the Electronic Evidence Procedures.)

(d) An expert report of the type described in LBR 9014-1(c) herein for any expert expected to testify.

(2) Initial Disclosures. If the movant elects to require pretrial disclosures as set forth herein, movant shall include the following statement in bold in the first paragraph of the motion: “Disclosures pursuant to LBR 9014-1(d)(1) shall be required for this matter.” If the movant does not include such language invoking the disclosure requirement, the respondent may invoke the requirement by including the same language in bold in the first paragraph of the response. If either the movant or a respondent invokes the initial disclosure requirements herein, each party shall provide to every other party to the contested matter the information listed below in subsections (a) thru (c). 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 7 calendar days after service of the objection or response or on or before the fourth business day prior to the hearing, whichever occurs first. The disclosures required in paragraph (c) shall be completed no later than 14 days after service of the response or on or before the fourth business day prior to the hearing, whichever occurs first.

(3) 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 supplement any factual or legal arguments made in their motion or response by submitting briefs or memoranda of law no later than noon on the second business day prior to the hearing, unless a court order or notice indicates a different deadline.

(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.

(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) An Order, or an Agreed Order for First Continuance is filed no later than noon on the second business day prior to the date of the scheduled hearing;

(2) The order or 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.

9014-2. Corporate Ownership Statement

Parties to contested matters shall comply with FED. R. BANKR. P. 7007.1.

9018-1. Secret, Confidential, Scandalous or Defamatory Matter

Except as required by LBR 9037-1, the following applies to requests for documents filed under seal.

(a) Specific Court Order Required. No document may be filed under seal, i.e., closed to inspection or access by the public, except pursuant to a court order. A sealing order request must be narrowly tailored. No stipulation or blanket protective order that allows a party to designate documents as sealable will be entered.

(b) Request to File Document Under Seal. Counsel seeking to file a document or any portion under seal must:

(1) File by physical delivery to the Clerk and serve a Motion to File under Seal, accompanied by a declaration establishing that the document is sealable. The motion must specify the appropriate level of public disclosure with respect to each of the following:

(i) The docket text on CM/ECF regarding the Motion to File under Seal;

(ii) The Motion to File under Seal;

(iii) The docket text on CM/ECF regarding the Order Granting Filing Under Seal;

(iv) The Order Granting Filing Under Seal; and

(v) The docket text on CM/ECF regarding the filing of the document(s) filed under seal.

(2) Specify parties to whom the Clerk may grant access to the sealed document(s).

(3) Attach the completed form located on the court's website at www.tnmb.uscourts.gov>Forms>Local Bankruptcy Forms>Appendix H as a cover sheet to the Motion to File under Seal.

(4) File by physical delivery to the Clerk a proposed order sealing the document(s).

(5) File by physical delivery to the Clerk the document(s) in a sealed envelope or container, with a cover sheet affixed prominently displaying the notation: "DOCUMENT SUBMITTED UNDER SEAL."

(6) If only a portion of a document is sealable, the submitting party must also file, by physical delivery to the Clerk, a redacted version of the document to be placed in the public record if the Court approves the requested sealing order; and

(7) File by physical delivery to the Clerk a second copy of the document submitted under seal for delivery to the Judge's chambers by the Clerk in an identically labeled envelope or container.

(c) Request Denied. If a request to file under seal is denied in whole or part, the Clerk will notify the submitting party, hold the document for 14 days for the submitting party to retrieve it and, if it is not retrieved, destroy it.

(d) Effect of Seal. Unless otherwise ordered, any document filed under seal shall be kept from public access, including inspection by attorneys and parties to the action. Any document filed under seal shall be destroyed by the Clerk unless it is retrieved by the submitting party within 1 year after the closing of the case or proceeding in which it was filed.

9019-1. Settlements and Agreed Orders

Any motion or order to approve a compromise or settlement must be filed in the bankruptcy case and in any related proceeding where the complaint or action originated.

9019-2. Alternative Dispute Resolution

Pursuant to 28 U.S.C. §§ 471, 473(a)(6) and 651-58, and FED. R. BANKR. P. 7016, the United States Bankruptcy Court for the Middle District of Tennessee has created an Alternative Dispute Resolution Program (“ADR Program”). The ADR Program is described in a separate document known as “The ADR Program for the United States Bankruptcy Court for the Middle District of Tennessee.” That document is located on the court’s website, at <www.tnmb.uscourts.gov>Local Rules>Alternative Dispute Resolution (ADR) Program. The ADR Program is part of the Local Bankruptcy Rules and may be cited as LBR 9019-2.

9024-1. Motion for Relief from Order of Dismissal

Any motion for relief from an order of dismissal of a bankruptcy case shall comply with LBR 9013-1 and, if applicable, LBR 9075-1.

9029-1. Local Rules – General

(a) Effective Date. These Local Bankruptcy Rules shall take effect December 1, 2016.

(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).

(c) Administrative Procedures for Electronic Case Filing. The bankruptcy judges of the district are authorized, pursuant to FED. R. BANKR. P. 9029(a)(1), to make and amend administrative procedures with respect to Electronic Case Filing (ECF) in the Bankruptcy Court for the Middle District of Tennessee. Administrative procedures so enacted shall have the force of local bankruptcy rules but shall be made, amended and applied with due regard for the new and still developing technology that is the ECF system.

(d) Administrative Procedures for Submission of Evidence Electronically. Pursuant to FED. R. BANKR. P. 9029(a)(1) and (2), the bankruptcy judges of the district are authorized and have enacted procedures governing the submission of electronic evidence, known as Electronic Evidence Procedures (“EEP”). The administrative procedures for submission of electronic evidence have the force of local bankruptcy rules and may be amended from time to time. The most current version of these procedures are located on the court’s website <www.tnmb.uscourts.gov>. The “Electronic Evidence Submission Application,” (“EESA”) is located in ECF, under “Bankruptcy” tab > “Exhibits.”

9036-1. Notice by Electronic Transmission

Except as provided in ECF Procedure 7 and to the extent practical, the Clerk and all registered ECF filers are directed to send only electronic notice to any entity so consenting or requesting.

9037-1. Privacy Protection for Filed Documents

(a) Form. Any request to limit public access, to redact and/or to remediate personally identifiable information pursuant to Fed. R. Bankr. P. 9037 shall be initiated by Motion. The Motion shall be filed electronically as a Miscellaneous Proceeding using ECF by selecting the event styled “Motion to Restrict Access to Document or Motion to Redact.” Public access to the Motion to Restrict Public Access or the Motion to Redact shall be restricted automatically by the Clerk, subject to subsections (c) and (e) below. No separate request for permission to file under seal is required. No relief other than to restrict public access and/or permission to file a redacted document(s) may be requested in this initial motion. The Motion must identify the debtor(s), the case number(s), the entity seeking to restrict public access and/or requesting permission to file a redacted document, the entity that filed the affected document(s), the attorney for the entity that filed the affected document(s), and the docket entry or claim number of each document to which public access is to be restricted.

(b) Notice. Notice and service of the initial Motion must be accomplished in a non-public manner on the debtor(s), the debtor’s attorney, the entity that filed the affected document(s) and on the United States Trustee (*see*, LBR 2002-2).

(c) Clerk Shall Act. The filing of a Motion consistent with this rule shall be acted upon as soon as practicable by the Clerk before or after entry of an order. The only acts authorized by this provision are the entry by the Clerk of an order restricting public access to the affected document(s) identified in the Motion and implementing that restriction. The Clerk shall not physically redact, alter or replace any filed document. Access to the affected document(s) shall remain unrestricted to the debtor(s), the debtor’s attorney, the entity that filed the affected document(s), the United States Trustee and the case trustee.

(d) Other Relief. Any request for relief with respect to personally identifiable information other than the initial Motion described in this rule shall be filed publicly in the Miscellaneous Proceeding using ECF and the entity requesting further relief shall comply with LBR 9013-1 or LBR 9075-1.

(e) Public Access to Miscellaneous Proceeding. Absent contrary order, 28 days after the filing of a Motion the Clerk shall lift the restriction on public access to the Motion(s) described in subsection (a) above.

(f) Further Action Required. Whenever an order is entered restricting access to or redacting a document under this rule, the party that originally filed the document shall immediately file an amended version of the document which redacts any personally identifiable information.

(g) Fees. Except when the movant filed the document requiring restriction or redaction, the following are exempt from the miscellaneous proceeding opening fee and the fee to file the motion:

- (1) an entity moving to protect its own privacy, or the privacy of another related to movant by blood or close affinity;

- (2) the case trustee; and,
- (3) the United States Trustee.

9070-1. Exhibits

After final determination of any matter or proceeding, parties shall have 28 days within which to withdraw exhibits. In the event the exhibits are not withdrawn, the Clerk may, without notice, dispose of the exhibits as the Clerk deems necessary, but in no event sooner than the closing of the bankruptcy case, adversary proceeding or miscellaneous proceeding.

9072-1. Orders – Proposed

(a) Filing of Proposed Orders. All orders orally announced in court shall be filed by the attorney for the prevailing party within 7 days, or as otherwise directed by the court.

(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.

(b) Obtaining Expedited Relief. A request for expedited relief shall be captioned, “Expedited Motion,” and the motion shall be in the following form:

Paragraph one shall state the expedited relief requested.

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.

Paragraph three shall state to whom, when and how notice of the expedited motion was given.

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.

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.