Local Rule 2091-1 Debtors' Attorneys - Scope of Representation (2014)

(a) Scope of Representation. A debtor's attorney must represent the debtor in all aspects of the case, including the meeting of creditors, motions filed against the debtor, and post-confirmation matters. The debtor’s attorney must also represent the debtor in adversary proceedings filed against the debtor unless, pursuant to this rule, the Court has excused the attorney from this requirement. The scope of representation cannot be modified by agreement. The court may deny fees or otherwise discipline an attorney for violation of this rule.

(b) Relief From the Duty to Represent Debtors in Adversary Proceedings. If an adversary proceeding is filed against the debtor, the debtor’s attorney may move the Court for an order relieving the attorney of the duty to represent the debtor in the adversary proceeding. The motion shall be filed in the adversary proceeding and not in the main bankruptcy case.

(1) With Client's Consent. If the attorney obtains written consent of the client, the written consent must clearly advise the client of the last date to answer the complaint, and advise the client that default judgment may be entered if the client fails to answer the complaint. If the attorney has obtained the written consent of the client, the motion may be presented to the court ex parte.

(2) Without Client's Consent. If the attorney has not obtained the written consent of the client, the motion must be served upon the client. The motion must be accompanied by a statement of the moving attorney certifying that:

(A) the attorney has sent the client written notification advising the client that the attorney will not be representing the client in the adversary proceeding, advising the client of the last date to answer the complaint, and advising the client that a default judgment may be entered if the client fails to answer the complaint (a copy of the written notification must also be attached to the motion); or

(B) the client cannot be located or for whatever other reason cannot be notified of the pendency of the motion

COMMENT (2014)

This rule has been amended to provide a procedure for debtor’s counsel to be relieved of their duty to represent the debtor in an adversary proceeding. Because the scope of representation under this rule includes adversary proceedings, debtor’s counsel will be the counsel of record in adversary proceedings. The option afforded by this rule is not mandatory. The rule is intended to ensure that the debtor is informed that the attorney will not be representing the debtor in the adversary proceeding, informed of the deadline to answer the complaint and informed that a default judgment may be entered if an answer to the complaint is not filed.

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