

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

IN THE MATTER OF ADOPTION OF  
AMENDED LOCAL RULES OF COURT

General Order Number 13-002

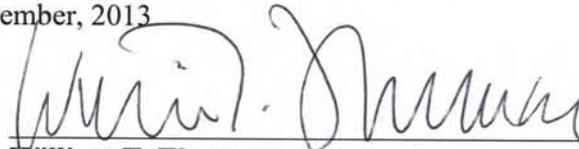
This General Order Number 13-002 is issued by the United States Bankruptcy Court for the District of Utah Pursuant to 28 U.S.C. § 2071, Federal Rules of Civil Procedure 83, Federal Rules of Bankruptcy Procedure 9029, District Court Local Civil Rule 83-7-4, and Bankruptcy Local Rule 1001-1(c). Proposed amendments to the local rules of practice were published for comment and the comment period has expired and the United States District Court for the District of Utah has reviewed and approved the amended Local Rules as set forth in the District Court General Order 13-004. Accordingly,

IT IS HEREBY ORDERED, that local rules: are amended in accordance with the copy attached.

IT IS FURTHER ORDERED, that the amended local rules as attached hereto shall be adopted and become effective on December 1, 2013, and

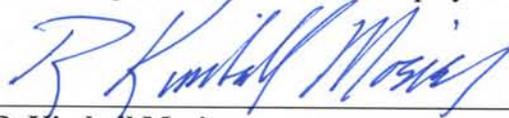
IT IS FURTHER ORDERED, that the Clerk of the Court shall cause notice of the attached amendments to the local rules be published to the Bar and the public.

DATED this 26<sup>th</sup> day of November, 2013



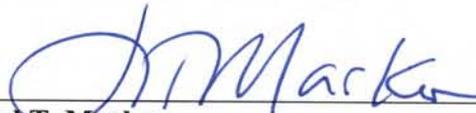
**William T. Thurman**

Chief Judge, United States Bankruptcy Court for the District of Utah



**R. Kimball Mosier**

United States Bankruptcy Judge



**Joel T. Marker**

United States Bankruptcy Judge

## **RULE 1007-1**

### **LISTS, SCHEDULES, STATEMENTS, AND CERTIFICATIONS**

(a) Petitions, Schedules, Statements, and Plans.

(1) Procedures for Dismissal of Chapter 7, 11, or 12 Cases for Failure to Timely File Certain Papers. If a debtor does not timely file certain papers identified in subsections A, B, and C below, the case will be dismissed using the following procedure unless otherwise recommended by the United States trustee or case trustee or unless otherwise ordered by the court. The United States trustee or case trustee must file a Section 341 Meeting Report (Report) indicating the failure to comply and serve it on the debtor and debtor's attorney. If the Report contains a recommendation that the case not be dismissed, the case shall not be dismissed and administration of the case shall continue without prejudice to any motion to dismiss filed by a party in interest. If the Report does not contain a recommendation that the case not be dismissed and if an objection to dismissal is not filed within 21 days after the Report is mailed, the clerk must enter an order dismissing the case. If an objection is timely filed, the dismissal is stayed. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection is not held within 40 days after the objection is filed.

(A) Voluntary Case in Which the Debtor is Not an Individual.

The court may dismiss a voluntary case in which the debtor is not an individual, except a case that has been converted from a chapter 11 case to a chapter 7 case, if the debtor fails to file a list of creditors' names and addresses under Local Rule

1007-1, a list of equity security holders, or documents required by § 521(a)(1) or § 1116(1), within the time provided by Fed. R. Bankr. P. 1007 or any extension granted under § 1116(3).

(B) Voluntary Chapter 11 or 12 Case in Which the Debtor is an Individual. The court may dismiss a voluntary case if the debtor fails to file a list of creditors' names and addresses under Local Rule 1007-1, or documents required by § 521(a)(1) or § 1116(1), within the time provided by Fed. R. Bankr. P. 1007 or within any extension granted under § 1116(3).

(C) Voluntary Chapter 7 Case in Which the Debtor is an Individual. The court may dismiss a voluntary case, except a case that has been converted from a chapter 11 case to a chapter 7 case, if the debtor fails to file a list of creditors' names and addresses under Local Rule 1007-1, or documents required by § 521(a)(1) and Fed. R. Bank. P. 1007(b)(1) within the time provided by Fed. R. Bankr. P. 1007. However, nothing in this Rule shall alter the provisions for automatic dismissal of this case under § 521(i).

(2) Procedure for Dismissal of a Case under Chapter 13 for Failure to Timely File Certain Papers. The court may dismiss a case, except a case that has been converted from a chapter 7 case to a chapter 13 case, if the debtor fails to file a list of creditors' names and addresses under Local Rule 1007-1, or documents required by §521(a)(1) and Fed. R. Bankr. P. 1007(b)(1) within the time required by Fed. R. Bankr. P. 1007(c), or a chapter 13 plan within the time provided by Fed. R. Bankr. P. 1007 and 3015. The procedures for dismissal on these grounds are set forth in Local Rule 2083-1(f).

However, nothing in this rule or in Local Rule 2083-1(f) shall alter the provisions for automatic dismissal of the case under § 521(i).

(b) List of Creditors and Equity Security Holders. The debtor may file with the petition, but must file no later than 2 days thereafter, the list required under Fed. R Bankr. P. 1007(a)(1) in a form designated by the clerk and, if applicable, an additional list of creditors holding claims under § 507(a)(1)(A) and (B), and a list of equity security holders, in the manner prescribed by the clerk's office. If the debtor files a list of creditors holding claims under § 507(a)(1)(A) and (B), the clerk may provide the notice specified in § 704(c)(1)(A) and (B) at least 20 days prior to the meeting of creditors under § 341. The clerk may mail the notice provided by the trustee as specified in § 704(c)(1)(C) within 21 days after the debtor is granted a discharge under § 727.

(c) Filing of Documents Following Conversion. Lists, schedules, statements, and other documents filed prior to conversion of a case to another chapter shall be deemed filed in the converted case; however, within 21 days after the entry of an order converting the case, the debtor shall file either: (i) a declaration under penalty of perjury that there have been no material changes to the lists, schedules, statements, and other documents filed prior to conversion, or (ii) amended lists, schedules, statements, and other documents reflecting such changes.

(d) Section 109(h) Compliance.

(1) Section 109 (h) Certification. If the debtor fails to certify compliance with § 109(h)(1) on the petition, or request a waiver under § 109(h)(3)(A) on the petition and file a separate application for exemption and proposed order with the petition, or fails to file a request for determination by the court under § 109(h)(4) with the petition, the clerk must enter an order dismissing the case.

(2) Certification of Eligibility for Exemption. A debtor who requests a waiver under § 109(h)(3)(A) on the petition must also file with the petition a separate application for exemption and proposed order granting the application for exemption. The court may grant the application for exemption, set the application for exemption for hearing, or may deny the application for exemption without hearing. If the application for exemption is granted, the debtor must timely file a certification indicating compliance with the requirements of § 109(h)(1) or the clerk must enter an order of dismissal. If the application for exemption is denied, the clerk must enter an order of dismissal.

(3) Section 109(h)(4) Hearing. A debtor who timely files a request for determination by the court under § 109(h)(4) must set the matter for a hearing to be held within 40 days of filing the petition with notice pursuant to Local Rule 2002-1. If the court does not determine that § 109(h)(4) is applicable within 40 days of the filing of the petition, or within such additional time as the court, for cause, determines, the clerk must enter an order of dismissal.

## **RULE 2004-1**

### **EXAMINATION UNDER RULE 2004**

The court may enter an order granting a motion under Fed. R. Bankr. P. 2004(a) without prior notice or hearing if the motion:

- (1) Identifies the entity to be examined;
- (2) Sets forth in what manner or way the examination of the entity relates to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge; and
- (3)
  - (i) Represents that the entity to be examined will receive not less than 14 days written notice of the examination, and attendance of an entity for examination and the production of documents will comply with Fed. R. Bankr. P. 2004(c); or
  - (ii) Represents that the movant and the entity to be examined have stipulated in writing to the time and place of the examination and to the production of documents.

### **COMMENT**

This rule permits parties, on an ex parte basis, to obtain a court order authorizing an examination pursuant to Bankruptcy Rule 2004. In order to obtain such an order, the movant must identify the entity to be examined, the entity's relationship to the debtor or the case and must represent that the entity has either consented to the examination or will receive at least 14 days notice of the examination and that entity's attendance will be compelled by subpoena. A Rule 2004 order, obtained ex parte, may not compel the entity to be examined to attend the examination or produce documents.

**RULE 2083-1**

**CHAPTER 13 - GENERAL**

(a) **Chapter 13 Plan.** Unless otherwise ordered by the court, all chapter 13 plans shall substantially conform to the applicable Model Plan Form posted on the bankruptcy court's website.

(b) **Chapter 13 Plan Payments.** Unless otherwise ordered by the court, payments under § 1326 of the Code must commence not later than 30 days after the date of the filing of the petition or after the date of the entry of the order converting the case to one under Chapter 13. All such payments must be made by certified funds, money order, or a trustee-approved means of electronic funds transfer, made payable as directed by the trustee.

(c) **Preconfirmation Payments Pursuant to § 1326(a)(1).** The chapter 13 plan shall list the creditor name, address, account number, payment due date, and payment amount for each creditor entitled to preconfirmation adequate protection or lease payments to be paid by the trustee.

(1) **Adequate Protection.** Unless otherwise ordered by the court, all preconfirmation adequate protection payments to holders of secured claims required under § 1326(a)(1) shall not be made by the debtor directly to the secured claimant, but shall be paid to and disbursed by the trustee. The debtor's preconfirmation plan payments to the trustee shall include the amount required under § 1326(a)(1) and the amount necessary to pay the trustee's statutory fee.

(2) **Lease Payments.** If the chapter 13 plan provides for lease payments over the term of the plan to be paid by the trustee, preconfirmation lease payments to such lessors

shall be paid by the trustee and the above provisions regarding preconfirmation adequate protection payments shall apply. If the chapter 13 plan provides for lease payments to be paid by the debtor and not by the trustee over the term of the plan, then preconfirmation lease payments to such lessors required under § 1326(a)(1) shall be made directly by the debtor and not by the trustee.

**(d) Documents Provided to the Trustee at or before the Meeting of Creditors.**

(1) In addition to those documents required by § 521, a debtor must provide to the trustee copies of the following documents at least 7 days before the date first set for the first meeting of creditors:

(A) Proof of all charitable contributions made within 60 days before the date of the filing of the petition;

(B) A copy of the most recent county property tax assessment for all real property listed on Schedule A;

(C) A profit and loss statement if a debtor had self-employment income for the 60 days prior to filing, including income reported on an IRS Form 1099;

(D) A business questionnaire for each business operated by the debtor 60 days prior to filing on a form supplied by the trustee; and

(E) Copies of tax returns required under Local Rule 6070-1(c)(2).

(2) A debtor must provide to the trustee copies of the following documents at or before the first date set for the meeting of creditors:

(A) Evidence of current postpetition income such as the most recent payment advice; and

(B) Statements for each of the debtors' checking, savings, brokerage,

and money market accounts and mutual funds for the time period that includes the date of the filing of the petition.

(e) **Dismissal for Failure to Attend a Meeting of Creditors or Make Payments.**

If the debtor or the debtor's attorney fails to appear at the scheduled or continued meeting of creditors required under § 341 of the Code or if a debtor fails to make the first payment required by subsection (a) of this rule, the trustee must file a motion to dismiss or notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 21 days after the motion or notice is mailed, the clerk must enter an order dismissing the case. A hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.

(f) **Preconfirmation Motions to Dismiss for Failure to File or Provide Documents or Comply with Other Requirements.** In addition to cause for dismissal under § 1307(c), the trustee, or with respect to subpart (5), the applicable taxing authority, may file a motion to dismiss or notice of failure to comply for the following grounds:

- (1) Failure to file documents required under Local Rule 1007-1(a)(2);
- (2) Failure to provide identification and social security documentation under Fed. R. Bankr. P. 4002(b)(1) or (b)(2);
- (3) Failure to provide documents under subsection (c) of this rule;
- (4) Failure to provide information in response to a written request by a trustee or United States trustee under Local Rule 4002-1(b); or
- (5) Failure to provide proof of tax trust accounts under Local Rule

6070-1(a)(3) or failure to comply with requirements with respect to tax returns under Local Rule 6070-1(c).

The motion to dismiss or notice of failure to comply must be served on the debtor and the debtor's attorney. If an objection is not filed within 21 days after the motion or notice is mailed, the clerk must enter an order dismissing the case. A hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.

**(g) Postpetition Child Support, Alimony, Maintenance Payments Deemed Voluntary.** Unless a chapter 13 debtor on the petition date, or such later time as the court allows, files with the court, the trustee, and the requisite state office of recovery services a notice setting forth the debtor's intent to terminate postpetition child support, alimony, maintenance payments or income withholding, the debtor will be deemed as of the date of the petition to have stipulated as follows: (1) that any child support, alimony, or maintenance obligation that matures postpetition, whether continuing or delinquent and whether paid directly by the debtor or collected by means of income withholding under state law, is voluntarily made by the debtor under the debtor's budget of postpetition expenses; and (2) that any collection of such obligations will not constitute grounds for compensatory, injunctive or punitive relief against the collecting party for any violation of the provisions of § 362 of the Code. This rule does not apply to any child support, alimony, or maintenance obligation that matures and becomes delinquent postpetition and that the debtor and a state office of recovery services have agreed in writing will be treated as a prepetition obligation included in the debtor's plan.

**(h) Eligibility Hearing.** A party must file and serve a motion to dismiss a chapter 13

case under § 109(e) of the Code not later than 7 days before the date set on Official Form 9I for the plan confirmation hearing. Such motion will be heard at the plan confirmation hearing, unless the court orders otherwise.

**(i) Distribution in Preconfirmation Cases.**

(1) Preconfirmation Disbursements by the Chapter 13 Trustee.

Preconfirmation disbursements under § 1326(a)(1) are hereby authorized without further order. The amount and timing of adequate protection payments will be as stated in the plan or as ordered by the court; however, the trustee shall not disburse such payments until the creditor entitled to adequate protection has filed an allowed proof of claim. Claims filed after a case is dismissed will not receive adequate protection payments. Preconfirmation disbursements under § 1326(a)(1) shall be made to creditors within 30 days of the filing of the proof of claim, unless, within 7 business days prior to the end of such 30 day period, the trustee has not received sufficient, cleared funds to make such payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) preconfirmation disbursements. (2) Distribution in

Discontinued Preconfirmation Cases. If a case is converted or dismissed prior to confirmation, the trustee is authorized to apply the debtor's plan payments to pay: (1) an allowed expense fee to the standing chapter 13 trustee; (2) adequate protection payments pursuant to the terms in the preceding paragraph; (3) any allowed administrative expenses; and (4) the balance of such funds will be paid by check made payable to and sent to the debtor(s). (j) **Confirmation.**

(1) Objections to Confirmation. Any objection to the original plan must be filed and served not later than 7 days before the date set on Official Form 9I for the plan confirmation hearing. If an amended or modified plan is filed, objections must be filed and served not later than 21 days after service of the plan or notice of such plan. All objections to the plan will be

heard at the confirmation hearing, unless the court orders otherwise. If the objecting party does not appear at the confirmation hearing, the court may deem the objection to be withdrawn.

(2) **Confirmation of the Plan.** The debtor bears the burden of proof in establishing compliance with the requirements for confirmation under Title 11, Chapter 13, and specifically 11 U.S.C. § 1325. Any bankruptcy papers or amendments relating to confirmation of the plan must be filed with the court not later than four (4) business days before the confirmation hearing. If bankruptcy papers need to be filed after this deadline, counsel should seek a continuance of the confirmation hearing to give all parties an opportunity to review the papers. If the court confirms the plan, the debtor will be deemed to be in compliance with § 521(a)(1)(A).

(3) **Confirmation Without a Hearing.** If all timely filed objections to confirmation are resolved, the trustee may recommend to the court that the plan be confirmed without a hearing. If the court agrees, the confirmation hearing may be stricken, an order confirming the plan may be entered, and debtors and debtors' counsel need not appear at the confirmation hearing.

(4) **Evidentiary Hearings on Confirmation.** If parties intend to put on evidence relating to confirmation of a plan, they should inform the court, the trustee, and any objecting party of such intent and request from the court a separate, evidentiary confirmation hearing.

(k) **Trustee Postconfirmation Motions to Dismiss.** The trustee's postconfirmation motion to dismiss or notice of failure to comply must be served on the debtor and the debtor's attorney. Within 24 days after the motion or notice is mailed (21 days plus 3 days for mailing), the debtor must take all of the following actions or the clerk shall enter an order dismissing the case: (1) file an objection to the motion or notice; (2) set the objection for a hearing; and (3) give notice of the hearing to the trustee.

(l) **Trustee's Report of Claims.** After the governmental claims bar date and after

claims have been reviewed by debtors' counsel and/or the trustee, the trustee may file a Trustee's Report of Claims ("TROC") that lists all claims and how they are treated under the plan. The TROC will be served on the current mailing matrix. Any objection to the TROC must be filed within 21 days. If there are no timely objections, the TROC will be deemed incorporated into the confirmation order and will be binding on parties. If a timely objection is filed, the objecting party shall forthwith set and notice the matter for a hearing.

**(m) Request for Discharge.** As soon as practicable after the completion of all payments under the plan, the trustee shall file with the court and serve upon the debtor and debtor's counsel a Notice of Completion of Plan Payments. If debtor's counsel asserts unpaid fees or costs in a case, counsel must within 30 days of the filing of the Notice of Completion of Plan Payments take the following actions: (1) file an objection to the Notice of Completion of Plan Payments, (2) file an appropriate application for such fees and costs, and (3) serve a notice of hearing on such application. Failure to timely comply with any of these requirements will result in a waiver of all such fees. Within 60 days thereafter, the debtor shall file and serve on all parties in interest a Verification and Request for Discharge in the form attached to these Local Rules as Local Bankruptcy Form 2083-1. If no written objection to the Verification and Request for Discharge is filed within 21 days after service thereof, the court may enter a discharge pursuant to § 1328(a) without further notice or hearing.

## **RULE 3011-1**

### **PROCEDURE FOR PAYMENT OF UNCLAIMED FUNDS**

(a) **Requirements for Payment of Unclaimed Funds.** The Court may not disburse unclaimed funds without an application for payment of unclaimed funds, notice of the application and a court order authorizing payment of unclaimed funds.

(b) **Application for Payment of Unclaimed Funds.** The following documentation is required in order to obtain a court order authorizing payment of unclaimed funds:

(1) **Requirements for individuals.** An application for payment of unclaimed funds should substantially conform to Local Form 3011-1. Claimant must submit a photocopy of a valid photo identification issued by a government entity, such as a driver's license or passport. The application shall include the last four (4) digits of the claimants social security number.

(2) **Requirements for Assignee of Claimant or Representative of Estate of a Deceased Claimant.** An application for payment of unclaimed funds submitted by an Assignee of Claimant or Representative of Estate of a Deceased Claimant should substantially conform to Local Form 3011-1. If the claimant is an assignee, claimant must provide documents establishing the chain of succession and assignment from the original claimant as proof of entitlement to the funds. If the claimant is a representative of the estate of a deceased claimant, certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be provided as proof of entitlement. The assignee or the representative must comply with paragraph (1) above.

(3) Requirements for corporations. An application for payment of unclaimed funds submitted by a corporation should substantially conform to Local Form 3011-1. In addition, if the claimant is a successor corporation, claimant must provide documents establishing the chain of succession of the original corporate claimant as proof of entitlement to the funds. The application shall also include the tax identification number of the corporate claimant.

(4) Requirements for funds locators. An application for payment of unclaimed funds submitted by a funds locator should substantially conform to Local Form 3011. In addition, the funds locator shall provide documentation establishing their authorization to act on behalf of claimant. The application shall also include the tax identification number or the last four digits of the claimant's social security number.

(c) **Service of the Application.** An application for payment of unclaimed funds and a notice that any objection to the application must be filed within 21 days from the date of mailing of the application shall be filed with the Bankruptcy Court Clerk's office and mailed to the debtor, debtor's attorney, the trustee, the United States trustee, the United States Attorney for the District of Utah and, if Claimant is not the original creditor or payee, the application and the notice must be served on the individual or entity for whom the funds were deposited.

(d) **Order Authorizing Disbursement of Unclaimed Funds.** If no objection is timely filed, the Court shall issue an order authorizing the disbursement requested in the application. If an objection to the application is timely received, the matter shall be referred to the Court for determination.

## **RULE 5072-1**

### **DECORUM**

(a) **Civility**. Attorneys and parties should conduct themselves in bankruptcy proceedings, including meetings of creditors and discovery proceedings, in a civil and professional manner.

(b) **Courtroom Conduct of Attorneys**.

(1) Unless the court permits otherwise, only 1 attorney for each party may examine or cross-examine a witness and not more than 2 attorneys for each party may argue the merits of the action.

(2) To maintain decorum in the courtroom when court is in session, attorneys must abide strictly by the following rules, unless the court permits otherwise:

(A) Attorneys must stand when examining and cross-examining witnesses.

(B) Attorneys must not address questions or remarks to an opposing attorney without first obtaining permission from the court. Appropriate and quiet informal consultations among attorneys off the record are not precluded if this does not delay or disrupt the progress of the proceedings.

(C) The examination and cross-examination of witnesses must be limited to questions addressed to witnesses. Attorneys must not make statements, comments, or remarks prior to asking a question or after a question has been answered.

(D) In making an objection, an attorney must state plainly and briefly the specific ground for an objection and must not engage in argument unless requested or permitted by the court.

(E) Only 1 attorney for each party may object to the testimony of a witness

being questioned by an opposing party. The objection must be made by the attorney who has conducted or is to conduct the examination of the witness.

(F) Attorneys must examine a witness from the lectern, unless necessary to approach the witness or the clerk's desk to present or examine an exhibit.

(c) **Courtroom Argument.** The court may determine the length of time and the sequence of final arguments of the parties. The party having the primary burden of proof must open and close the final arguments unless the court directs otherwise.

## **RULE 6007-1**

### **ABANDONMENT**

A Request for Abandonment and Proposed Abandonment may be filed by any party in interest in the form attached to these Local Rules as Local Bankruptcy Form 6007-1. After review, the chapter 7 trustee may electronically endorse the Proposed Abandonment. If the trustee endorses the Proposed Abandonment, the requesting party may file and serve a Notice of Proposed Abandonment upon all interested parties in the form attached to these Local Rules as Local Bankruptcy Form 6007-1-A. If the trustee fails to endorse the Proposed Abandonment, the requesting party may not file or serve a Notice of Proposed Abandonment. If no objections to the Proposed Abandonment are filed by the objection deadline set out in the Notice of Proposed Abandonment, the requesting party may file a Notice of Abandonment in the form attached to these Local Rules as Local Bankruptcy Form 6007-1-B. If the trustee endorses the Notice of Abandonment, the property identified in the Notice of Abandonment will thereby be abandoned and no longer be property of the bankruptcy estate. Should the trustee fail to endorse the Proposed Abandonment or the Notice of Abandonment as requested, the property shall remain property of the Estate.

### **COMMENT**

Amendment to this rule is necessitated by the Tenth Circuit Court of Appeals decision in *In re Cook* (*Cook v. Wells Fargo Bank, N.A.*) 2013 WL 1297590 (10th Cir. 2013). The rule provides a streamlined process for a party in interest to obtain an abandonment of property of the bankruptcy estate. The rule permits a party in interest to prepare and file appropriate pleadings, and with the trustee's consent, provide notice of the trustee's intent to abandon to parties in interest. After proper notice to parties in interest, and in the absence of objection, the trustee may abandon the property.

**Local Bankruptcy Form 6007-1**

**Form for Request for Abandonment and Proposed Abandonment - Local Rule 6007-1**

Attorney Submitting (Utah State Bar No.)  
Address  
Telephone No.  
Facsimile No. (Optional)  
E-Mail Address (Recommended)  
Attorney for

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

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In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon. <u>(Judge's Name)</u>

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**REQUEST FOR ABANDONMENT AND TRUSTEE'S PROPOSED ABANDONMENT  
OF PROPERTY OF THE ESTATE**

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REQUEST FOR ABANDONMENT

Chapter 7 Trustee: \_\_\_\_\_

Description of Secured Property: \_\_\_\_\_

Value of Property: \$ \_\_\_\_\_

Basis of Valuation: \_\_\_\_\_

Amount of Liens, if any, on the Property: Approximately \$ \_\_\_\_\_  
to: \_\_\_\_\_

The above information is true to the best of my knowledge and belief. Attached to this request are documents that reflect a properly perfected security interest in the property listed above. It is requested that the trustee endorse this Proposed Abandonment so that it may be noticed to all

parties in interest pursuant to Local Rules 6007-1. Should the chapter 7 trustee fail or refuse to endorse this Proposed Abandonment, it will not be noticed to parties in interest and shall not be effective.

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Name: Attorney name  
Attorney for: \_\_\_\_\_

PROPOSED ABANDONMENT

Pursuant to 11 U.S.C. §554, I found the above listed property burdensome to the estate or of inconsequential value to the estate. I propose to abandon such property subject to the notice provisions of Bankruptcy Rule 6007, and Local Rule 6007-1.

Date: \_\_\_\_\_.

By Electronic Endorsement  
Chapter 7 Trustee

**ABANDONMENT OF THE PROPERTY IDENTIFIED HEREIN IS SUBJECT TO NOTICE TO ALL INTERESTED PARTIES PURSUANT TO BANKRUPTCY RULE 6007 AND LOCAL RULE 6007-1.**

**Local Bankruptcy Form 6007-1-A**

**Form for Notice for Abandonment and Proposed Abandonment - Local Rule 6007-1**

Attorney Submitting (Utah State Bar No.)  
Address  
Telephone No.  
Facsimile No. (Optional)  
E-Mail Address (Recommended)  
Attorney for

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

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In re:  Debtor(s).	Bankruptcy No.  Chapter  Hon. <u>(Judge's Name)</u>
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**NOTICE OF PROPOSED ABANDONMENT AND PURSUANT TO BANKRUPTCY RULE 6007 AND  
BANKRUPTCY LOCAL RULES 6007-1**

**OBJECTION DEADLINE: \_\_\_\_\_**

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TO ALL PARTIES IN INTEREST:

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

PLEASE TAKE NOTICE that pursuant a request for abandonment filed by [secured creditor, interested party, debtor] \_\_\_\_\_ the chapter 7 trustee proposes to abandon the following described property of the estate:

[Insert description of property as set forth in the request for abandonment]

NO HEARING WILL BE CONDUCTED ON THE PROPOSED ABANDONMENT  
UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE COURT ON OR  
BEFORE THE OBJECTION DEADLINE SET FORTH BELOW.

If you do not want the property abandoned, or if you want the Court to consider your views on the Proposed Abandonment, then, on or before \_\_\_\_\_ (date must be at least 14 days from the date of mailing this notice plus 3 days for mailing), you or your attorney must:

1. File with the Court a written response explaining your position at:

United States Bankruptcy Court  
350 South Main Street, Room 301  
Salt Lake City, UT 84101

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

2. Serve a copy of your response upon the following via ECF or U.S. mail:

Name  
Address  
(Chapter 7 Trustee)

Name  
Address  
(Attorney for Requesting Party)

DATED: \_\_\_\_\_.

By \_\_\_\_\_

CERTIFICATE OF SERVICE  
(SEE LOCAL FORM 9013-3)

**Local Bankruptcy Form 6007-1-B**

**Form Notice of Abandonment - Local Rule 6007-1**

Attorney Submitting (Utah State Bar No.)  
Address  
Telephone No.  
Facsimile No. (Optional)  
E-Mail Address (Recommended)  
Attorney for

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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH

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In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon. <u>(Judge's Name)</u>

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**NOTICE OF ABANDONMENT PURSUANT TO LOCAL RULE 6007-1**

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Notice of Proposed Abandonment having been served on all parties in interest and no objection having been filed, the Trustee hereby abandons the following described property of the estate.

Description of Property: \_\_\_\_\_.

Date: \_\_\_\_\_

\_\_\_\_\_  
Chapter 7 Trustee  
By Electronic Endorsement

FOR THIS NOTICE TO BE AN EFFECTIVE ABANDONMENT OF PROPERTY, IT MUST BE ELECTRONICALLY ENDORSED BY THE TRUSTEE.

## **RULE 6070-1**

### **TAX RETURNS AND TAX REFUNDS**

(a) **Tax Requirements in Chapter 11, 12 and 13 Cases.** Debtors in possession, chapter 11 trustees, and chapter 12 and 13 debtors, are subject to the requirements and regulations of the Internal Revenue Service and any applicable state or local taxing authority. Debtors who are not required to collect federal taxes as described in subsection (1) below and are not required to collect state and local taxes as described in subsection (2) below are required to comply only with subsection (6) below.

(1) **Federal Taxes.** The debtor, debtor in possession or the trustee must comply with the Internal Revenue Code and regulations regarding withholding of taxes from the wages of employees, the payment of the employer's FICA and FUTA tax liabilities, the making of deposits of such taxes, and the filing of employment tax returns as well as any excise or income tax returns for which the estate is liable.

(2) **State Taxes.** The debtor, debtor in possession or the trustee must comply with the laws and regulations of any applicable state or local taxing authority regarding withholding of taxes from the wages of employees; the collection and remittance of other types of tax which the estate is required to collect, deposit with, or remit to any applicable state or local taxing authority; the payment of unemployment insurance contributions to the appropriate state or local taxing authority; and the timely filing of returns accounting for the same.

(3) **Trust Accounts.** Within 21 days after the petition date, the debtor in possession or trustee must open separate bank trust accounts for the Internal Revenue

Service and for each applicable state and local taxing authority for all tax deposits. Only the tax deposits due each entity are to be made into these trust accounts as they accrue each pay period. A chapter 12 or 13 debtor must provide the applicable trustee proof of such trust accounts at the § 341 meeting.

(4) Notification. The debtor in possession or trustee should notify the Internal Revenue Service and each state or local taxing authority of the location and account numbers of the respective trust accounts opened under subsection (a)(3) of this rule. The notices should be sent within 7 days after the date the account is opened. Notices to the Internal Revenue Service, the Utah State Tax Commission, and the Utah Department of Workforce Services must be mailed or delivered to addresses cited in Local Rule 2002-1(h).

(5) State Deposit Verification. The debtor, debtor in possession or trustee must, if applicable, file the Utah State Tax Commission's Verification of Taxpayer Deposit at the address shown in Local Rule 2002-1(h) within 7 days after making the required deposit.

(6) Filing and Payment. The debtor, debtor in possession or trustee must: (A) timely file any required tax returns with the Internal Revenue Service; (B) timely file any required tax returns with any applicable state or local taxing authority; (C) timely file unemployment insurance contribution reports with applicable state or local authorities; and (D) pay taxes on a current basis. Returns and reports filed with and payments made to the Internal Revenue Service, the Utah State Tax Commission and the Utah Department of Workforce Services should be delivered to the addresses stated in Local Rule 2002-1(h), not to the regular addresses for filing the returns and reports.

**(b) Tax Returns in Chapter 12 Cases.** The chapter 12 debtor must, at least 30 days before the first day required by law for the filing of the debtor's federal tax return(s), forward to the trustee a full and complete copy of the federal tax return(s) for each preceding year or portion thereof while the case is pending.

**(c) Tax Returns in Chapter 13 Cases.**

(1) A chapter 13 debtor must, no later than the day before the date on which the meeting of creditors is first scheduled to be held, file with the appropriate tax authorities, any and all tax returns required under applicable nonbankruptcy law for all taxable periods ending during the four year period before the filing of the petition.

(2) A chapter 13 debtor must provide, not later than 7 days before the date first set for the first meeting of creditors, to the trustee a copy of the Federal and state income tax returns required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal or state income tax return was filed.

(3) No later than the day before the date on which the meeting of creditors is first scheduled to be held, the debtor must file and serve on the trustee a declaration regarding tax returns in the form attached hereto as Local Bankruptcy Form 6070-1.

(4) The debtor may request from the court an order extending the time period set forth in this subsection on notice to the trustee and applicable taxing authority. If the debtor fails to comply with paragraphs (1), (2) or (3) of this subsection in the time period therein or as extended by the court, the case may be dismissed under the procedures set forth in Local Rule 2083-1(f).

**(d) Modification of the Automatic Stay for Certain Assessments and Refunds of**

**Taxing Entities.** Unless a party in interest objects and the court orders otherwise, the stay of § 362 of the Code is modified to provide for the following assessments and refunds in any case filed in this district. The Internal Revenue Service, Utah Tax Commission, and the Utah Department of Workforce Services are authorized to:

(1) assess tax liabilities reflected on voluntary filed tax returns and tax returns prepared under authority of applicable statutory provisions; and

(2) make refunds in the ordinary course of business to debtors who have filed cases under chapter 9, 12 or 13, to trustees appointed in chapter 7 and 11 cases, or, if a trustee has not been appointed in a chapter 11 case, to the debtor in possession.

## **RULE 7016-1**

### **PRETRIAL PROCEDURES**

(a) **Initial Pretrial Conference.** After the initial appearance of a defendant, the clerk must notify the parties of the date, time, and place of the initial pretrial conference under Fed. R. Bankr. P. 7016.

(b) **Parties' Planning Conference.** Under Fed. R. Civ. P. 26(f) and Fed. R. Bankr. P. 7026, the parties must confer as soon as practicable and in any event at least 21 days prior to the initial pretrial conference, and must prepare a Report of Parties' Planning Meeting which conforms substantially with Form 35, a copy of which is attached as Local Bankruptcy Form 7016-1 to these Local Rules. No later than 14 days after the parties' planning conference, the parties are jointly responsible for filing Form 35 with the court.

(c) **Scheduling Order.** At the conclusion of the initial pretrial conference, the court will enter a scheduling order in accordance with Fed. R. Bankr. P. 7016. Included in the scheduling order will be modifications of discovery requirements as the court deems appropriate. Unless otherwise ordered by the court, the requirements of the scheduling order, including deadlines, continue in force until disposition of the proceeding.

(d) **Expedited Adversary Proceeding.** At the initial pretrial conference, if the amount of the controversy is \$15,000 or less, or by consent of the parties, the court may order that the trial be scheduled on an expedited basis. The scheduling order will govern the procedure to be followed before and during an expedited trial.

(e) **Supplemental Pretrial Conferences.** At the request of a party or on the court's own motion, the court may schedule a supplemental pretrial conference to expedite disposition of the adversary proceeding particularly if it involves complex facts or unusual delay.

(f) **Attorneys' Conference.** At a time to be fixed during the initial pretrial conference, or, if no time is fixed, at least 14 days prior to the final pretrial conference, the attorneys for the parties must hold an attorneys' conference to discuss settlement, a proposed pretrial order, stipulated facts, exhibit list, witness list, and other matters that will aid in an expeditious and productive final pretrial conference and the preparation of an accurate, complete, and definitive pretrial order.

(g) **Final Pretrial Conference.** The court may schedule a final pretrial conference. The trial attorney must attend the final pretrial conference. Preparation for the final pretrial conference should be in accordance with Fed. R. Bankr. P. 7016.

(h) **Pretrial Order.** At the time ordered by the court, the plaintiff must submit to the court for execution a proposed pretrial order approved by all attorneys. The form of the pretrial order should generally conform to the approved form attached as Local Bankruptcy Form 7016-1-A to these Local Rules. If the attorneys are unable to agree on a proposed pretrial order, each attorney must state his or her contentions as to the portion of the pretrial order upon which no agreement has been reached. The court will then determine a final form for the pretrial order and advise the parties. Thereafter, the order will control the course of the trial and may not be amended except by consent of the parties and the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged into the order. The court may dismiss an adversary proceeding if the pretrial order is not filed within the time fixed by the scheduling order. The pretrial order shall not excuse any party or that party's attorney from any of the requirements set forth in any scheduling order.

## RULE 7056-1

### SUMMARY JUDGMENT

(a) **Summary Judgment Motions and Memoranda.** This rule applies to motions for summary judgment in contested matters under Fed. R. Bankr. P. 9014 and adversary proceedings. A motion for summary judgment and the supporting memorandum must be clearly identified in the case caption and introduction.

(b) **Motion: Form, Elements and Undisputed Material Facts; and Background Facts Statement.** The movant must file the motion for summary judgment in compliance with Local Rule 5005-2 within any applicable time limitation, unless the court orders otherwise. The motion and any supporting memorandum must be contained in one document. A motion for summary judgment must include the following sections:

- (1) An introduction summarizing why summary judgment should be granted;
- (2) A section entitled “Statement of Elements and Undisputed Material Facts”

that contains the following:

- (a) Each legal element required to prevail on the motion;
- (b) Citation to legal authority supporting each stated element (without argument);
- (c) Under each element, a concise statement of the material facts necessary to meet that element as to which the moving party contends no genuine issue exists. Only those facts that entitle the moving party to judgment as a matter of law should be included in this section. Each asserted fact must be presented in an individually numbered paragraph that cites with particularity the evidence in the record supporting each factual assertion (e.g., deposition transcript, affidavit,

declaration, and other documents).

(3) An argument section explaining why, under the applicable legal principles the asserted undisputed facts entitle the party to summary judgment.

The motion may, but need not, include a separate background section that contains a concise statement of facts, whether disputed or not, for the limited purpose of providing background and context for the case, dispute, and motion. This section may follow the introduction and may, but need not, cite to evidentiary support. The memorandum may also provide a concise conclusion.

(c) **Notice of the Motion and Hearing.** The movant shall obtain and set an appropriate hearing date with the court scheduling clerk. A Notice of Summary Judgment Motion and Notice of Hearing shall be filed in compliance with Local Rule 5005-2. A Notice of Summary Judgment Motion and Notice of Hearing shall;

(1) be in substantial conformity with Local Bankruptcy Form 9013-1, with alterations as may be appropriate to comply with these Local Rules;

(2) state a specific objection deadline that is at least 21 days after service of the Notice of Summary Judgment Motion and Notice of Hearing.

(d) **Memorandum in Opposition; Response to Elements and Facts; and Background Facts.** A party filing a memorandum in opposition to a motion for summary judgment must file its opposition in compliance with Local Rule 5005-2 by the date stated in the Notice of Summary Judgment and Notice of Hearing. A memorandum in opposition to a motion for summary judgment must include the following sections:

(1) An introduction summarizing why summary judgment should be denied;

(2) A section entitled "Response to Statement of Elements and

Undisputed Material Facts" that contains the following:

(a) A concise response to each legal element stated by the moving party. If the non-moving party agrees with a stated element, state "agreed" for that element. If the party disagrees with a stated element, state what the party believes is the correct element and provide citation to legal authority supporting the party's contention (without argument). If the non-moving party agrees that any stated element has been met, so state.

(b) A response to each stated material fact. Under each element that a party disputes as having been met, restate each numbered paragraph from the statement of material facts provided in support of that element in the motion. If a fact is undisputed, so state. If a fact is disputed, so state and concisely describe and cite with particularity the evidence on which the non-moving party relies to dispute that fact (without legal argument).

(c) A statement of any additional material facts, if applicable. If additional material facts are relevant to show that an element has not been met or that there is a genuine issue for trial, state each such fact separately in an individually numbered paragraph that cites with particularity the evidence in the record supporting each factual assertion (e.g., deposition transcript, affidavit, declaration, and other documents).

(d) A statement of additional elements and material facts, if applicable. If there are additional legal elements not stated by the moving party that the non-moving party contends preclude summary judgment, state each such element along with citation to legal authority that supports the

element (without argument) and any additional material facts that create a genuine issue for trial on these elements. Each additional asserted fact must be presented in an individually numbered paragraph that cites with particularity the evidence in the record supporting each factual assertion (e.g., deposition transcript, affidavit, declaration, and other documents).

- (3) An argument section explaining why under the applicable legal principles, summary judgment should be denied.

The memorandum in opposition may, but need not, include a separate background section that contains a concise statement of facts, whether disputed or not, for the limited purpose of providing background and context for the case, dispute, and motion. This section may follow the introduction and may, but need not, cite to evidentiary support. The memorandum may also provide a concise conclusion.

(e) **Reply Memorandum.** The moving party may file a reply memorandum no later than 7 days after the objection is served and in no case less than 4 days before the date set for hearing. In the reply, a moving party may only cite additional evidence not previously cited in the opening memorandum to rebut a claim that a material fact is in dispute. Otherwise, no additional evidence may be cited in the reply memorandum, and if cited, the court will disregard it.

(f) **A Motion May Not Be Made in a Response or Reply Memorandum.** No motion may be included in a memorandum in opposition or reply memorandum. Such a motion must be made in a separate document.

(g) **Length of Motion, Memorandum in Opposition, and Reply Memorandum.** A motion for summary judgment or a memorandum opposing a motion for summary judgment must not exceed 25 pages in length, exclusive of face sheet, table of contents, statements of issues and

facts, and exhibits. A reply memorandum must not exceed 10 pages, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits.

(h) **Overlength Memoranda.** An order of the court must be obtained to file a motion or memorandum that exceeds the page limitations set forth in subsection (g) of this rule. Such a motion may be made to the court ex parte, and must include a statement of why additional pages are needed and the number of pages. The court will approve the request only for good cause shown. If authorized, an overlength memorandum must contain, in addition to the elements and sections otherwise required by this rule, a table of contents, with page references, setting forth the titles or headings of each section and subsection;

(i) **Citations of Unpublished Decisions.** A memorandum may cite an unpublished decision from this district, but only if the decision is furnished to the court and parties when the memorandum is filed. Unpublished opinions from other districts may not be cited as authority. Unpublished decisions of this court should be cited as follows: *Smith v. Jones* (In re Smith), Ch. 7 Case No. 93B-22404, Adv. No. 94PC-2302, slip op. at 10 (Bankr. D. Ut. March 1, 1995). The clerk maintains an index and copies of selected, unpublished opinions from this district.

(j) **Citations of Supplemental Authority.** When pertinent and significant authorities come to the attention of a party after a memorandum has been filed, or after oral argument but before the court renders a decision, a party may advise the court by letter, with a copy to all parties, setting forth the citations. The letter must, without argument, state the reason for the supplemental citations and include a reference either to the page of the memorandum or to a point argued orally to which the citations pertain. Any response must be promptly made and similarly limited.

(k) **Supporting Exhibits to Memoranda.** All evidence offered in support of or opposition to motions for summary judgment must be submitted in a separately filed appendix with

a cover page index. The index must list each exhibit by number, include a description or title and, if the exhibit is a document, provide the source of the document. A responding party may object as provided in Fed. R. Civ. P. 56(c)(2). Upon failure of any responding party to object the court may assume for purposes of summary judgment only that the evidence proffered would be admissible at trial.

(l) **Certificate of Service.** Unless otherwise ordered, a party must file a certificate of service of the Summary Judgment Motion, the Notice of Summary Judgment Motion and Notice of Hearing and all subsequent pleadings . The certificate must be filed with the motion and notice, endorsed upon the motion, notice and subsequent pleading, or filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The certificate must be in substantial conformity with Local Bankruptcy Form 9013-3.

(m) **Failure to Respond.** Failure to respond timely to a motion for summary judgment may result in the court's granting the motion without further notice.

(n) **Granting Relief Without a Hearing.** The court may, but is not required to, strike the hearing and grant the relief requested in a motion for summary judgment without a hearing if there has been no memorandum in opposition to the motion filed or served on the movant. The court may, but is not required to, strike the hearing and enter an order disposing of the summary judgment motion if the court determines that oral argument is not necessary or helpful.

(o) **Time for Striking Hearings.** A request to strike a hearing should be made at least two business days prior to the hearing.

#### COMMENT

This rule sets forth procedures specific to motions for summary judgment in contested matters and adversary proceedings. The rule adopts the procedures of the U.S. District Court of Utah but clarifies that notice of a summary judgment motion and an objection deadline must be served on

adverse parties. The purpose of the Statement of Elements and Undisputed Material Facts and the corresponding section in the memorandum in opposition to a motion for summary judgment is to distill the relevant legal issues and material facts for the court while reserving arguments for the respective argument sections of the motion and opposition memorandum.

**RULE 9004-1**

**CAPTION - PAPERS, GENERAL**

(a) **General.** The caption of papers filed or served after the commencement of a case or proceeding must substantially conform to Official Forms 16A, 16B and 16D, as follows:

(1) Caption (Short Title) - Form 16B. *(May be used if 11 U.S.C. § 342(c) is not applicable).*

Attorney Submitting (Utah State Bar No.)  
Address  
Telephone No.  
Facsimile No.  
E-Mail Address  
Attorney for

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

In re:  Debtor(s).	Bankruptcy No.:  Chapter  Hon. <u>(Judge's Name)</u>
--------------------------	--

**Title of Document**

(2) Caption (Full) - Form 16A (Must be used if 11 U.S.C. § 342(c) is applicable).

Attorney Submitting (Utah State Bar No.)  
Address  
Telephone No.  
Facsimile No.  
E-Mail Address  
Attorney for

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

In re: [Set for all names including married, maiden, and trade names used by debtor within last 8 years.]  Address _____ Last four digits of Social Security No. or Individual Tax-Payer Identification No. _____  Employer's Tax Identification No. (if any) _____  Debtor(s).	Bankruptcy No.  Chapter  Hon. <u>(Judge's Name)</u>
---	---

**Title of Document**

(3) Caption for Use in Adversary Proceeding - Form 16D.

Attorney Submitting (Utah State Bar No.)  
Address  
Telephone No.  
Facsimile No.  
E-Mail Address  
Attorney for

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH**

In re:	Debtor(s).	Bankruptcy No.
		Chapter
		Adversary Proceeding No.
vs	Plaintiff(s),	Hon. <u>(Judge's Name)</u>
	Defendant(s).	

**Title of Document**

(b) **Title.** The title of each paper must designate the nature of the paper and include a reference to who filed it.

RULE 9013-1

MOTION PRACTICE - SET HEARING

(a) **Scope of Rule.** This rule applies to motions in bankruptcy cases and adversary proceedings. The term "motion" means application, request, objection to claim, or other proceeding in the nature of a motion or contested matter in which a party in interest seeks an order from or determination by the court. Motions for summary judgment are not governed by this rule, but are governed by Local Rule 7056-1. For purposes of this rule, the term "motion" does not refer to a summons, complaint, appeal, motion for summary judgment, or an ex parte motion.

(b) **Applicability.** In bankruptcy cases and adversary proceedings, whenever the movant seeks an order from or determination by the court and the movant believes the motion will be opposed, the procedures set forth in this rule should be used.

(c) **Motions.** The movant must file the motion with the clerk in compliance with Local Rule 5005-2 within any applicable time limitation, including the time limitations of these rules, unless the court orders otherwise.

(1) **No Separate Supporting Memorandum for a Written Motion.** The motion and any supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include the following:

- a) an initial separate section stating succinctly the precise relief sought and the specific grounds for the motion; and
- b) one or more additional sections including a recitation of relevant facts, supporting authority, and argument, and a concise statement of each basis

supporting the motion with citations to applicable and controlling legal authority.

(2) **Failure to Comply with Requirements for Motions.** Failure to comply with the requirements of subsection (c)(1) may result in sanctions, including (a) returning the motion to counsel for resubmission in accordance with this rule, (b) denial of the motion, or (c) any other sanction deemed appropriate by the court.

**(d) Notice of Motion and Hearing.** The movant shall obtain and set an appropriate hearing date with the court scheduling clerk. A Notice of Motion and Notice of Hearing shall be filed in original form only together with a certificate of service evidencing compliance with the applicable service requirements. A Notice of Motion and Notice of Hearing shall:

(1) be in substantial conformity with Local Bankruptcy Form 9013-1, Notice of Motion and Notice of Hearing with alterations as may be appropriate to comply with these Local Rules;

(2) contain a specific statement of the relief requested or action intended in sufficient detail to meaningfully inform the parties of the intended action or relief requested or, if the motion is served with the notice, refer to the motion to describe the relief requested;

(3) set the last date on which an interested party may file an objection to the motion. The identified date must be based on the time period fixed by the Federal Rules of Bankruptcy Procedure or by Local Rule 9006-1(b), as appropriate;

(4) include a statement that the hearing may be stricken and relief requested may be granted without a hearing unless an objection is timely filed.

(5) include a statement that the objecting party must attend the hearing and that failure to attend the hearing will be deemed a waiver or the objection.

(6) be given by the movant to all parties in interest at their addresses of record, and to such other parties as the Federal Rules of Bankruptcy Procedure may specify or the court may direct.

(e) **Responses to Motions and Reply Memoranda.** A party responding to a motion must file its response in compliance with Local Rule 5005-2 by the date identified in the notice.

(1) **No Separate Supporting Memorandum for a Response.** The response and any supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include one or more sections including a recitation of relevant facts, a concise statement of each basis opposing the motion with citations to applicable and controlling legal authority, and an argument.

(2) **Reply Memorandum.** A reply memorandum is limited to rebuttal of matters raised in the response.

(3) **Limitation on Memoranda Considered.** Unless otherwise ordered, the court will consider only motions, responses filed by parties in interest, and reply memoranda filed by the movant(s).

(4) **A Motion May Not Be Made in a Response or Reply Memorandum.** No motion may be included in a response or reply memorandum. Such a motion must be made in a separate document.

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(f) **Granting Relief Without a Hearing.** The court may, but is not required to, strike

the hearing and grant the relief requested in a motion without a hearing if there has been no opposition to the motion filed or served on the movant.

End Of Moved Text

(g) **Time for Striking Hearings.** A request to strike a hearing should be made at least two business days prior to the hearing.

(h) **Length of Motion and Response.** A motion other than for summary judgment or a response to a motion other than for summary judgment must not exceed 15 pages, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. The procedure for filing an overlength memorandum is set forth in subsection (k) of this rule.

(i) **Citations of Unpublished Decisions.** A memorandum may cite an unpublished decision from this district, but only if the decision is furnished to the court and parties when the memorandum is filed. Unpublished opinions from other districts may not be cited as authority. Unpublished decisions of this court should be cited as follows: Smith v. Jones (In re Smith), Ch. 7 Case No. 93B-02404, Adv. No. 94PC-2302, slip op. at 10 (Bankr. D. Ut. March 1, 1995). The clerk maintains an index and copies of selected, unpublished opinions from this district.

(j) **Citations of Supplemental Authority.** When pertinent and significant authorities come to the attention of a party after a memorandum has been filed, or after oral argument but before the court renders a decision, a party may advise the court by letter, with a copy to all parties, setting forth the citations. The letter must, without argument, state the reason for the supplemental citations and include a reference either to the page of the memorandum or to a point argued orally to which the citations pertain. Any response must be promptly made and similarly limited.

(k) **Overlength Memoranda.** An order of the court must be obtained to file a

memorandum that exceeds the page limitations set forth in subsection (h) of this rule. Such a motion may be made to the court ex parte, and must include a statement of why additional pages are needed and the number of pages. The court will approve the request only for good cause shown. Authorized, overlength memoranda must contain the following:

- (1) a table of contents, with page references, setting forth the titles or headings of each section and subsection;
- (2) a statement of the issues related to the precise relief sought;
- (3) a concise statement of facts, with appropriate references to the record, relevant to the issues concerning the precise relief sought;
- (4) argument, preceded by a summary, containing the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on; and
- (5) a short conclusion stating the precise relief sought.

**(l) Certificate of Service.** Unless otherwise ordered, a party must file a certificate of service of a motion or other paper required to be served on other parties. The certificate must be filed with the motion or paper, endorsed upon the motion or paper, or filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The certificate must be in substantial conformity with Local Bankruptcy Form 9013-3.

## RULE 9013 -2

### MOTION PRACTICE - OPPORTUNITY FOR HEARING

(a) **Scope of Rule.** This rule applies to motions in bankruptcy cases. The term “motion” means application, request, objection to claim, or other proceeding in the nature of a motion in which a party in interest seeks an order from or determination by the court. Motions for summary judgment are not governed by this Rule, but are governed by Local Rule 7056-1. For purposes of this Rule, the term “motion” does not refer to a summons, complaint, appeal, motion for summary judgment, or an ex parte motion.

(b) **Applicability.** Except as set forth herein, whenever the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure provide that an order may be entered or an action may be taken after "notice and a hearing," or a similar phrase, if the movant believes there will be no objections to the motion, the following procedure should be used. This rule does not apply:

- (1) whenever the court directs otherwise;
- (2) to any pleadings, motions, or notices in adversary proceedings under Part VII of the Federal Rules of Bankruptcy Procedure;
- (3) to hearings set under 11 U.S.C. § 1125;
- (4) to hearings on confirmation of a plan pursuant to chapter 9, 11 or 12;
- (5) applications for compensation that exceed \$5,000.00;
- (6) as otherwise provided by these Local Rules or the Federal Rules of Bankruptcy

Procedure.

(c) **Motions.** The movant must file the motion with the clerk within any applicable

time limitation, including the time limitations of these Local Rules, unless the court orders otherwise. A motion must set forth succinctly, without argument, the specific relief sought.

(d) **Notice of Motion and Notice of Opportunity for Hearing**. The movant may reserve a time for, but not set, a hearing on the court's calendar. A Notice of Motion and Notice of Opportunity for Hearing shall be filed in original form only together with a certificate of service evidencing compliance with the applicable service requirements. A Notice of Motion and Notice of Opportunity for Hearing shall:

- (1) be in substantial conformity Local Bankruptcy Form 9013-2 Notice of Motion and Opportunity for Hearing;
- (2) contain a specific statement of the relief requested or action intended in sufficient detail to meaningfully inform the parties of the relief requested or intended action or, if the motion is served with the notice, refer to the motion to describe the relief requested;
- (3) set the last date on which an interested party may file an objection to the motion. The identified date must be based on the time period fixed by the Federal Rules of Bankruptcy Procedure or by Local Rule 9006-1(b), as appropriate;
- (4) include a statement that the relief requested may be granted without a hearing unless an objection is timely filed;
- (5) include a statement that the objecting party must attend the hearing and that failure to attend the hearing will be deemed a waiver or the objection;
- (6) be given by the movant to all parties in interest at their addresses of record, and to such other parties as the Federal Rules of Bankruptcy Procedure may specify or the court may direct;

(e) **Objection.** Any party opposing the motion must file an Objection before the deadline stated in the Notice of Motion and Notice of Opportunity for Hearing. The Objection shall be filed with the court in original form only, and a copy thereof shall be served upon counsel for the movant on or before the date set forth in the notice. Service may be by mail and shall be complete upon mailing. Objections for hearing shall clearly specify the grounds upon which they are based. General objections will not be considered. Failure of a party to timely file written opposition will be deemed a waiver of any opposition to granting of the motion.

(f) **Court Action on Motions.**

(1) **Contested Matters.** Motions for which an opposition has been filed shall be set for hearing at the time, date and place set forth in the Notice of Motion and Opportunity for Hearing. No further notice of the date, time and place of hearing is required to be given.

(2) **Non-Contested Matters.** The court may, but is not required to grant the relief requested in a motion without a hearing if there has been no opposition to the motion filed or served on the movant.

(3) **Defective or Deficient Motions.** The Court may deny, sua sponte, any defective or deficient motion, or a motion, the notice of which is subject to the provisions of this Rule and which notice does not comply with this Rule. Any such denial shall be without prejudice.

(4) **Non-Prosecuted Motions.** At the time the bankruptcy case is closed pursuant to 350, 707, 930, 1112, 1208, or 1307 of title 11, all pending motions which have not been presented to the Court for disposition shall be deemed abandoned for want of prosecution. . Any such denial shall be without prejudice.

(g) **Applicable provisions of Local Rule 9013-1.** Paragraphs (h) through (l) of Local Rule 9013-1 are also applicable to this rule.

## RULE 9021-1

### PREPARATION AND SUBMISSION OF JUDGMENT OR ORDER

(a) **Separate Document Requirement.** Proposed orders must be prepared and submitted as separate documents, not attached to or included in motions or other papers filed with the court.

(b) **Review and Approval Procedures.**

(1) **Preparation, Service and Approval.** Unless otherwise provided herein or directed by the court, each proposed order and judgment should be prepared in writing and filed with the court by the attorney for the prevailing party. Objections to the proposed order or judgment must be filed within 7 days from the date the proposed order or judgment is filed.

(2) **Uncontested Matters and Orders Submitted in Open Court.** Unless otherwise directed by the court, the requirements set forth in subsection (1) do not apply to

(A) any proposed order or judgment on a matter that does not require a hearing and is uncontested, or

(B) any proposed order or judgment submitted in open court at the time of the hearing on the matter to which the proposed order or judgment applies.

(c) **Entry of Court Orders.** A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

All orders, decrees, judgments, and proceedings of the court, including orders submitted in open

court, will be filed in accordance with these Local Rules, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order that has been electronically signed by a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

**(d) Judgment Based Upon a Written Instrument.** Unless otherwise ordered by the court, a judgment based upon a written instrument must be accompanied by the original instrument or a certified copy which must be filed as an exhibit in the case or proceeding at the time judgment is entered. The instrument must be marked as having been merged into the judgment and show the docket number of the case or proceeding. The instrument may be returned to the party filing it upon order of court only as in the case of other exhibits.

**(e) Papers to Accompany Proposed Judgments, Orders or Notices of Appeal.**

A party filing a proposed judgment or order shall also file a designation of parties to receive notice pursuant to Fed. R. Bankr. P. 9022(a) for use by the clerk. The designation must be in substantial conformity with, Local Bankruptcy Form 9022-1.