

**UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA**

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**RULES OF THE UNITED STATES  
BANKRUPTCY COURT FOR THE  
MIDDLE DISTRICT OF FLORIDA**

\* \* \*

**WITH AMENDMENTS  
EFFECTIVE AUGUST 1, 1996**

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**IMPORTANT NOTICE**

These local rules were superseded by amendments effective April 15, 1997, that employ a nationally uniform numbering system prescribed by the Judicial Conference of the United States.

These superseded rules nevertheless may be valuable in tracing the historical derivations and revisions of the current rules, especially because of the Advisory Committee Notes that accompany many of the superseded rules.

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## **I. COURT ADMINISTRATION AND DISCIPLINE**

### **Rule 1.01 SCOPE OF RULES AND SHORT TITLE**

(a) These rules have been promulgated in accordance with F.R.B.P. 9029. These rules shall apply to all cases under title 11 and in all civil proceedings arising under title 11, or arising in or related to cases under title 11 in the United States Bankruptcy Court for the Middle District of Florida ("Court").

(b) These rules are intended to supplement and complement the Bankruptcy Code and Federal Rules of Bankruptcy Procedure. These rules shall be applied, construed and enforced to avoid technical delays, to permit the expeditious consideration and determination of all pending matters, and to allow the inexpensive administration of estates under the Bankruptcy Code.

(c) For good cause, the Court may suspend the requirements set forth in these rules and may order proceedings in accordance with its direction.

(d) The local rules governing civil and criminal proceedings in the United States District Court shall not apply to cases or proceedings in the Court unless otherwise ordered by the Court.

(e) The definitions of words and phrases contained in 11 U.S.C. §§ 101, 902, and 1101, and F.R.B.P. 9001, and the rules of construction contained in 11 U.S.C. § 102 shall also apply in these rules.

(f) These rules shall be cited as the Local Rules (Bankr. M.D. Fla.).

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*Notes of Advisory Committee<sup>1</sup>*

*1995 Amendment*

The amendments to subparagraphs (a) and (b) of Local Rule 1.01 are stylistic. No substantive change is intended.

A new subparagraph (e) is added to specify that the definitions of words and phrases contained in 11 U.S.C. §§ 101, 902, and 1101, and F.R.B.P. 9001, and the rules of construction contained in 11 U.S.C. § 102 also apply in the Local Rules.

Subparagraph (f) has been amended to expand the method of citation of the Local Rules to include the designation "(Bankr. M.D. Fla.)." References to the "Local Rules" as used herein shall mean the Local Rules (Bankr. M.D. Fla.).

These amendments were effective on February 15, 1995. The Court's Order Amending Local Rules of the United States Bankruptcy Court for the Middle District of Florida, No. 95-001-Mis-Tpa, entered on February 2, 1995, adopting these amendments provides that "[t]hese amendments govern all cases and proceedings commenced on or after February 15, 1995, and, insofar as practicable, all cases and proceedings then pending."

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<sup>1</sup> Pursuant to the Order Reconstituting Local Rules Lawyers' Advisory Committee, No. 94-004-Mis-Tpa, dated February 23, 1994, the Court reconstituted the membership of the Local Rules Lawyers' Advisory Committee (which shall be referred to herein as the "Advisory Committee") and requested the Advisory Committee to make such recommendations as appropriate generally concerning the Local Rules and specifically concerning the impact of the December 1, 1993, amendments to the Federal Rules of Civil Procedure. The Advisory Committee has drafted these notes with their proposed amendments to assist the Court, the bar, and the public in understanding the proposed amendments and in interpreting and following the rules if adopted by the Court.

**Rule 1.02 SANCTIONS FOR FAILURE TO COMPLY WITH LOCAL RULES**

The Court, on its own motion or on the motion of any party in interest, may impose sanctions for failure to comply with the Local Rules, including, without limitation, dismissal of the case or the proceeding, conversion of the case, denial of the motion filed by the party, striking of pleadings or other submissions, the staying of any further proceedings until verification of compliance with the Local Rules has been filed with the Court or as may otherwise be appropriate under the circumstances.

### **Rule 1.03 DIVISIONS OF THE COURT**

(a) The Middle District of Florida consists of those counties and places of holding court as designated in 28 U.S.C. § 89.

(b) The District shall be divided into four Divisions to be known as the Jacksonville, Orlando, Tampa and Ft. Myers Divisions, as follows:

(1) The Jacksonville Division shall consist of the following counties: Baker, Bradford, Citrus, Clay, Columbia, Duval, Flagler, Hamilton, Marion, Nassau, Putnam, St. Johns, Sumter, Suwannee, Union and Volusia. The place of holding court shall be Jacksonville.

(2) The Orlando Division shall consist of the following counties: Brevard, Lake, Orange, Osceola, and Seminole. The place of holding court shall be Orlando.

(3) The Tampa Division shall consist of the following counties: Hardee, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk and Sarasota. The place of holding court shall be Tampa.

(4) The Ft. Myers Division shall consist of the following counties: Charlotte, DeSoto, Glades, Collier, Hendry and Lee. The place of holding court shall be Ft. Myers; provided, however, the Ft. Myers docket shall be kept and administered in Tampa.

(c) All cases shall be commenced in that Division in which the domicile, residence, principal place of business, or principal assets of the person or entity that is the subject of such case have been located for the 180 days immediately preceding such commencement, or for a longer portion of 180 day period than the domicile, residence, principal place of business or principal assets of such person were located in any other Division; or in which there is pending a case under the Bankruptcy Code concerning such person's affiliate.

(d) If a case is filed in a Division other than as provided for in paragraph (c) above, the Court, on its own motion or the motion of any interested party, may order that the case be transferred to the Division as provided for in paragraph (c) above.

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*Notes of Advisory Committee*

*1995 Amendment*

This amendment abolishes the Ocala Division as a separate, freestanding division of the Court and reassigns to the Jacksonville Division the counties that presently comprise the Ocala Division. Because of the lack of facilities available to the Court in Ocala, bankruptcy court has not been conducted in Ocala for some considerable period of time. For this reason, cases from counties comprising the Ocala Division have been treated by the Court as filed in and assigned to the Jacksonville Division. In March, 1994, the Judicial Conference of the United States deleted Ocala from the list of approved places for holding bankruptcy court. This amendment, therefore, merely conforms the Local Rules to existing practice.

These amendments were effective on February 15, 1995.

**Rule 1.04 ASSIGNMENT OF CASES INITIALLY  
AND REASSIGNMENT OF CASES AND PROCEEDINGS  
ON RECUSAL OR DISQUALIFICATION**

(a) Initial Assignment of Cases -- Generally. The Clerk shall assign all cases filed in --

(1) a Division with two or more resident judges, to an individual judge selected by utilization of a blind draw system. The blind draw system is designed to ensure that individual assignment of cases within each Division with two or more resident judges is made at random or by lot. Neither the Clerk nor any member of the Clerk's staff shall have any power or discretion in determining the judge to whom any case is assigned. The method of assignment shall be designed to prevent anyone from choosing the judge to whom a case is to be assigned, and all persons shall conscientiously refrain from attempting to circumvent this rule.

(2) a Division with one resident judge, to the individual judge resident in that Division.

(3) the Ft. Myers Division, to a judge resident in the Tampa Division as provided in a general standing order.

(b) Initial Assignment of Cases -- Special Provisions. Notwithstanding any provision of subsection (a) to the contrary --

(1) The Court may provide by general standing order that the Clerk shall assign to a particular judge cases filed only under a certain chapter or chapters of the Bankruptcy Code.

(2) The Court may provide by general standing order that cases be assigned to judges under the blind draw system in such proportions as the court may from time to time direct.

(3) The Clerk shall assign successive cases filed by or against the same debtor and multiple cases filed by or against related entities or affiliates to the judge assigned the first such case. For purposes of this subsection (b)(3), a successive case includes a case that is later refiled after it is dismissed. It shall be the duty of counsel or the petitioning party or parties, if not represented by counsel, to bring such matters to the attention of the Clerk by noting full particulars about the previous or related filings on the second page of the Voluntary Petition (Official Form No. 1) or on a separate Notice of Successive or Related Cases.

(4) No application or motion for any order of court shall be made until the case or proceeding in which the matter arises has been docketed and assigned by the Clerk as prescribed by subsection (a) of this rule, and then only to the judge to whom the case has been assigned; provided, however:

(A) When no case has previously been initiated, docketed, and assigned, emergency applications and motions arising during days or hours that the Clerk's Office is closed may be submitted to any available judge resident in the appropriate Division, or, if no judge is available in the Division, to any other judge in the District, but the case shall then be docketed and assigned by the Clerk on the next business day and shall thereafter be conducted by the judge to whom it is assigned in accordance with subsection (a) of this rule.

(B) When the judge to whom a case or proceeding has been assigned is temporarily unavailable due to illness, absence, or prolonged engagement in other judicial business, emergency applications and motions arising in the case or proceeding may be made to the other resident judge in the Division or, if more than one, to the judge who is junior in date of appointment in that Division. If no other judge is available in the Division, such applications or motions may be made to any other available judge in the District.

(c) Reassignment of Cases and Proceedings Due to Disqualification or Recusal. In the event a judge is unable, because of the entry of an order of disqualification or recusal, to preside in a case or proceeding that is pending in --

(1) a Division with more than two resident judges, the Clerk shall reassign the case or proceeding to another judge resident in that Division selected by utilization of a blind draw system.

(2) a Division with two resident judges, the Clerk shall reassign the case or proceeding to the other judge resident in that Division.

(3) a Division with one resident judge, the Clerk shall reassign the case or proceeding to a judge in another Division as provided in a general standing order.

(4) the Ft. Myers Division, the Clerk shall reassign the case or proceeding to another judge resident in the Tampa Division selected in the same manner as provided in this subsection (c) as if the case or proceeding were pending in the Tampa Division.

(d) Successive Reassignment of Cases and Proceedings Due to Disqualification or Recusal. In the event a successor judge who is reassigned a case or proceeding is unable to preside because of the entry of an order of disqualification or recusal, the Clerk shall reassign the case or proceeding --

(1) to another judge resident in that Division, if there is one who is able to preside (by utilization of a blind draw system if there is more than one remaining judge able to preside); or

(2) to another judge selected by the Chief Judge if there is no other judge resident in that Division who is able to preside.

(e) Reassignment of Cases and Proceedings for Other Reasons.

(1) Nothing contained in this rule is intended to limit the authority of the Chief Judge pursuant to 28 U.S.C. § 154(b) to assign or reassign cases and proceedings as may be necessary to ensure that the business of the Court is handled effectively and expeditiously or of any judge to reassign cases and proceedings for other appropriate reasons, such as to equalize caseloads among judges, distribute cases to new judges, and the like.

(2) The judge to whom any case or proceeding is assigned may, at any time, reassign the case or proceeding to any other consenting judge for any limited purpose or for all further purposes.

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*Notes of Advisory Committee*

*1995 Amendment*

This amendment simply makes technical and grammatical changes necessary because of the abolition of the Ocala Division as contained in the amendment to Local Rule 1.03.

These amendments were effective on February 15, 1995.

### ***1993 Amendment***

This rule was substantially modified effective February 1, 1993, in anticipation of the arrival of new judges as a result of the expansion of the membership of the court that was authorized by the Congress.

**Rule 1.05 WITHDRAWAL OF CASES, CONTESTED MATTERS,  
OR ADVERSARY PROCEEDINGS, OBJECTIONS TO PROPOSED  
FINDINGS OF FACT AND CONCLUSIONS OF LAW IN  
NON-CORE PROCEEDINGS, AND OTHER MATTERS FILED IN  
THIS COURT BUT HEARD AND DETERMINED BY THE DISTRICT COURT**

(a) Briefing requirements; generally.

(1) Every written (i) motion for withdrawal of the reference of a case or proceeding pursuant to 28 U.S.C. § 157(b)(5) or (d), (ii) response thereto, (iii) objection to proposed findings of fact and conclusions of law in non-core proceedings pursuant to F.R.B.P. 9033, (iv) response thereto, and (v) any other motion, application, objection, or response that statute, the Federal Rules of Bankruptcy Procedure, these rules, an order, or the circumstances require be filed with the Clerk of this Court, but be heard and determined by the District Court, shall be accompanied upon filing and service by a legal memorandum with citation of authorities in support of, or in opposition to, the relief requested.

(2) Absent prior permission of the District Court, no party shall file any legal memorandum in excess of twenty (20) pages in length.

(3) The motions and matters within the scope of this rule shall not be deemed complete for purposes of transmittal to the Clerk of the District Court for hearing and determination until the parties have complied with the briefing requirements of this rule.

(b) Motions for withdrawal of the reference; special provisions.

(1) A motion for withdrawal, in whole or in part, of the reference of a case shall be filed with the Clerk not later than twenty (20) days after the date of the notice of the meeting of creditors mandated by 11 U.S.C. § 341 and F.R.B.P. 2003(a). Parties in interest without notice or without actual knowledge of the pendency of the case may file a motion for withdrawal of the reference not later than twenty (20) days after having acquired actual knowledge of the pendency of the case.

(2) A motion for withdrawal of the reference of a proceeding or contested matter arising in, under or related to a case that is a subject of the Order of General Reference must be filed with the Clerk not later than thirty (30) days after the filing of the initial pleading or other paper commencing the proceeding or contested matter. The United States or an officer or agency thereof shall file a motion for withdrawal of the

reference no later than thirty-five (35) days after the filing of the initial pleading or other paper commencing the proceeding or contested matter. A motion for withdrawal of a proceeding or contested matter must specifically identify the proceeding or contested matter to be withdrawn, setting forth the exact style, title and adversary number, where applicable.

(3) A motion for withdrawal of a proceeding or contested matter shall be served together with a legal memorandum on counsel of record for all parties to the proceeding or contested matter or, if a party has no counsel, on the party, and on counsel of record for the debtor, the debtor, and the United States Trustee. The opposing parties shall have ten (10) days after service of the motion to file a responsive pleading and legal memorandum with the Clerk.

(4) After expiration of the time allowed for a response, the Clerk shall transmit to the Clerk of the District Court copies of the motion and legal memorandum, response and legal memorandum, if any, and such other pleadings as the parties request in the motion and in the response, if any.

(5) Until and unless the Court or the District Court orders otherwise, the Court shall continue to hear the case or proceeding while the motion for withdrawal is under consideration in the District Court.

(6) Upon entry of an order by the District Court withdrawing the reference, the Clerk shall forward a copy of the entire case file or proceeding file to the Clerk of the District Court.

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***Notes of Advisory Committee***

***1995 Amendment***

The amendment to Local Rule 1.05 to delete the term "brief" when used in conjunction with "legal memorandum" as redundant is stylistic as is the addition of term "contested matter" where the term "proceeding" is used. No substantive change is intended.

Local Rule 1.05(b)(2) has been amended to specify that a motion for withdrawal of a proceeding or contested matter must be filed with the Clerk not later than thirty (30) days, or thirty-five (35) days in the case of the federal government, after the filing of the initial pleading or other paper commencing the proceeding or contested matter. In adversary proceedings, this corresponds to the time an answer or motion is due pursuant to

F.R.B.P. 7012(a). The amendment makes clear that motions to withdraw the reference of contested matters must be filed within the same period despite the inapplicability of F.R.B.P. 7012 to contested matters.

Local Rule 1.05(b)(3) has been amended to specify that a motion for withdrawal of a proceeding or contested matter shall be served on all parties to the proceeding or contested matter or, if a party has no counsel, on the party, in addition to counsel of record for the debtor, the debtor, and the United States Trustee.

These amendments were effective on February 15, 1995.

### ***1993 Amendment***

This amendment added a requirement for the filing of briefs or legal memoranda in certain circumstances to harmonize the practice in the Bankruptcy Court with the practice in the District Court and to facilitate the hearing and determination in the District Court of motions for withdrawal of the reference, objections to proposed findings of fact and conclusions of law in non-core proceedings, and other motions, applications, objections, and the like that are filed in the Bankruptcy Court but heard and determined in the District Court. The amendment was effective August 15, 1993.

## **Rule 1.06 ABSTENTION FROM CASES OR PROCEEDINGS**

A motion to abstain from a case or proceeding under either 11 U.S.C. § 305 or 28 U.S.C. § 1334(c) shall be filed with the Clerk not later than the time set for filing a motion to withdraw the reference pursuant to Local Rule 1.05 of these rules; provided, however, a motion to abstain from hearing a removed proceeding arising in, under or related to a case subject to the Order of General Reference shall be timely if filed not later than twenty (20) days following the filing of the notice of removal of the proceeding pursuant to 28 U.S.C. § 1452.

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### *Notes of Advisory Committee*

#### *1995 Amendment*

The amendment to Local Rule 1.06 is stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

**Rule 1.06A PROCEDURE UPON REMOVAL  
OF CLAIM OR CAUSE OF ACTION**

The party effecting removal of a claim or cause of action pursuant to 28 U.S.C. § 1452 and F.R.B.P. 9027 shall file with the notice of removal copies of all process, pleadings, orders and other papers or exhibits of every kind, including depositions, then on file in the state court.

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*Notes of Advisory Committee*

*1995 Amendment*

Local Rule 1.06A is new. It gives effect to F.R.B.P. 9027(e)(3) which permits the bankruptcy judge to require the party filing the notice of removal to file with the Clerk copies of all records and proceedings relating to the claim or cause of action in the court from which the claim or cause of action was removed. It is derived from District Court Local Rule 4.02(b). These amendments were effective on February 15, 1995.

## **Rule 1.07 ATTORNEYS - GENERAL REQUIREMENTS**

(a) Except as provided for below, no attorney shall be permitted to appear or be heard as counsel for another in any case or proceeding in the Court unless first admitted to practice in the United States District Court for the Middle District of Florida pursuant to Rule 2.01 of the Local Rules for the United States District Court for the Middle District of Florida.

(b) An attorney residing outside the State of Florida, who is not admitted to practice in the United States District Court for the Middle District of Florida, may appear without the necessity of seeking special admission to practice as provided for in subparagraph (c) below, and may also appear without general or special admission to practice in the following limited instances: the preparation and filing of a Notice of Appearance and Request For Service of Notices pursuant to F.R.B.P. 2002, the preparation and filing of a proof of claim, the attendance and inquiry at the meeting of creditors held under 11 U.S.C. § 341, and the attendance and representation of a creditor at a hearing that has been noticed to all creditors generally except the representation of a party in a contested matter or adversary proceeding.

(c) Special Admission to Practice.

(1) Any attorney residing outside the State of Florida, who is a member in good standing of the bar of any District Court of the United States other than the Middle District of Florida, may appear specially and be heard in any case or proceeding without formal or general admission; provided, however, such privilege is not abused by frequent or regular appearances in separate cases to such a degree as to constitute the maintenance of a regular practice of law in the Middle District of Florida; and provided further that, whenever a nonresident attorney appears as counsel by filing any pleading or paper in any case or proceeding pending in the Court except as specified in paragraph (b) above, the attorney shall, within ten (10) days thereafter, file a written designation and consent-to-act on the part of some member of the bar of the Middle District, resident in Florida, upon whom all notices and papers may be served and who will be responsible for the progress of the case; provided, however, the Court may waive such designation for good cause shown. The designation and consent-to-act requirement shall be deemed satisfied by the filing of a pleading signed as co-counsel by the non-resident attorney and by the Florida resident attorney who is a member of the bar of this district.

(2) Any attorney representing the United States, or any agency thereof, having the authority of the Government to appear as its counsel, may appear specially and be heard in any case or proceeding in which the Government or such agency thereof is a party-in-interest, without formal or general admission.

(3) Any attorney who appears specially in this Court pursuant to subparagraphs (1) or (2) of this paragraph shall be deemed to be familiar with, and shall be governed by these rules; and shall also be deemed to be familiar with and governed by the Rules of Professional Conduct and other ethical limitations or requirements then governing the professional behavior of members of The Florida Bar and shall be subject to the disciplinary powers of the Court, including the processes and procedures set forth in District Court Local Rule 2.04.

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*Notes of Advisory Committee*

*Second 1995 Amendment<sup>2</sup>*

The amendment to Local Rule 1.07(c)(1) deletes the in-district residency requirement for an attorney to serve as local counsel that was added by amendment effective February 15, 1995. The Court received negative comments about the wisdom of this requirement after it was added. At the Court's request, the Local Rules Lawyers' Advisory Committee reexamined its original recommendation that the in-district residency requirement be imposed. Upon reexamination, the committee concluded that, on balance, the requirement did more harm than good. This amendment therefore deletes this requirement and restores subparagraph (c)(1) of this rule to the way it was before the February 15, 1995, amendments.

This amendment is effective on July 1, 1995.

*1995 Amendment*

The amendment to Local Rule 1.07(b) is stylistic. No substantive change is intended.

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<sup>2</sup> This amendment was adopted by Order Amending Local Rule 1.07(c)(1), No. 95-004-MIS-TPA, dated June 21, 1995. The Local Rules Lawyers' Advisory Committee also prepared the Notes accompanying the amendment.

The amendment to Local Rule 1.07(c)(1) specifies that the attorney executing the written designation and consent-to-act on behalf of the non-resident attorney be resident in the Middle District of Florida.

The amendment to Local Rule 1.07(c)(3) is intended to clarify that an attorney appearing specially is subject to the same disciplinary process as a member of the bar of the District Court.

These amendments were effective on February 15, 1995.

**Rule 1.08 ATTORNEYS - APPEARANCE AND WITHDRAWAL**

(a) No attorney, having made an appearance for a creditor in a contested matter or adversary proceeding or having filed a petition on behalf of a debtor, shall thereafter abandon the case or proceeding in which the appearance was made, or withdraw as counsel for any party therein, except by written leave of Court obtained after giving ten (10) days' notice to the party or client affected thereby, and to opposing counsel.

(b) Unless allowed to withdraw from a case or proceeding by order of the Court, counsel filing a petition on behalf of a debtor shall attend all hearings scheduled in the case or proceeding at which the debtor is required to attend under any provision of Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, these rules, or order of the Court; provided, however, counsel need not attend a hearing in regard to a matter in which the debtor is not a party and whose attendance has only been required as a witness.

(c) Any party for whom a general appearance of counsel has been made shall not thereafter take any step or be heard in the case in proper person, absent prior leave of Court; nor shall any party, having previously elected to proceed in proper person, be permitted to obtain special or intermittent appearances of counsel except upon such conditions as the Court may specify.

(d) Corporations, partnerships, trusts and other non-individual parties may appear and be heard only through counsel permitted to practice in the Court pursuant to Local Rule 1.07.

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***Notes of Advisory Committee***

***1995 Amendment***

The amendments to Local Rule 1.08 are stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

## **Rule 1.09 PROHIBITION OF RECORDING AND PHOTOGRAPHIC EQUIPMENT**

(a) The taking of photographs, the broadcasting, televising or recording of proceedings other than by official officers or Court appointed reporters in the Court or in any courtroom or hearing room connected therewith are prohibited, except for the taking of photographs, recording or taping of ceremonies for the investing of judicial officers, other official ceremonies or functions as authorized by the Court, or except for the recording or transcribing by a private court reporter at a meeting held pursuant to 11 U.S.C. § 341.

(b) No photographic, broadcasting, television, sound or recording equipment of any kind will be permitted in or about such courtrooms or hearing rooms, including the entire floor or floors of any privately-owned facility in which the Court conducts its business, except for the taking of photographs, recording or taping of ceremonies for the investing of judicial officers or other official ceremonies or functions as authorized by the Court.

(c) Nothing in this rule shall prohibit the use of dictation or computer equipment in conjunction with reviewing files in the Clerk's Office or, subject to Court control, the use of computer equipment in the courtroom.

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### ***Notes of Advisory Committee***

#### ***1995 Amendment***

The amendment which adds new subparagraph 1.09(c) makes clear that the prohibition of recording and photographic equipment is not intended to prohibit the use of dictation equipment in conjunction with the review of the Clerk's Office files or the use of computer equipment, subject to Court control, generally.

These amendments were effective on February 15, 1995.

## **Rule 1.10 INTEGRITY OF FILES AND RECORDS**

(a) No person, shall insert or delete, tamper or deface, make any entry or correction by interlineation or otherwise, in, from or upon any file or other record of the Court unless expressly permitted or ordered to do so by the Court. No person other than the Clerk or authorized deputies or an official copy service shall unfasten any paper in any Court file.

(b) Any person may review in the Clerk's office Court files or other papers or records in the possession of the Clerk. Files may be removed from the Clerk's office only in emergency situations or as needed in connection with a related criminal or civil court proceeding upon written permission by the Clerk which shall specify the time within which the same shall be returned.

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### ***Notes of Advisory Committee***

#### ***1995 Amendment***

The amendment to Local Rule 1.10(b) makes this rule consistent with actual practice.

These amendments were effective on February 15, 1995.

## II. PRACTICE AND PROCEDURE GENERALLY

### Rule 2.01 APPLICABILITY OF PART II

Part II of these Rules shall apply to all cases and proceedings filed under the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

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#### *Notes of Advisory Committee*

#### *1995 Amendment*

The amendment to Local Rule 2.01 is stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

**Rule 2.02 FORM OF PLEADINGS AND OTHER SUBMISSIONS**  
**-- GENERAL REQUIREMENTS**

(a) All pleadings, and other submissions and proposed orders and other papers, including attachments thereto, tendered for filing shall be typewritten, and shall be on white paper approximately eight and one-half inches wide by eleven inches long, with one and one-fourth inch margins.

(b) All petitions, pleadings, motions, briefs, applications and orders tendered by counsel for filing shall contain on the first page a caption as in the Official Forms and in addition shall state in the title the name and designation of the party (e.g., Debtor, Creditor..., Plaintiff, Defendant, or the like) on whose behalf the paper is submitted, and a title descriptive of its contents.

(c) Service of any pleading or paper other than those required to be served in compliance with F.R.B.P. 9014 or 7004 may be made by transmitting it by facsimile to the attorney's or party's office with a cover sheet containing the sender's name, firm, address, telephone number, and facsimile number, and the number of pages transmitted. When service is made by facsimile, a copy shall also be served by any other method permitted by F.R.B.P. 7005. Service by facsimile after 5:00 p.m. (at the point of delivery) shall be deemed to have been made on the next business day. Service by facsimile constitutes a method of hand delivery for the purpose of computing the time within which any response is required.

(d) Every pleading and other submission filed on behalf of a party represented by counsel shall, in addition to full compliance with F.R.B.P. 9011, include the attorney's state bar registration number and facsimile phone number (if available).

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***Notes of Advisory Committee***

***1995 Amendment***

The amendment to Local Rule 2.02(c) allows service by facsimile of motions (other than motions required to be served in compliance with F.R.B.P. 9014 and 7004), briefs, applications and submissions in response to motions, briefs, or applications. These changes are substantially identical to provisions contained in District Court Local Rule 1.07(c).

The amendment to Local Rule 2.02(d) adds the requirement that an attorney's facsimile phone number (if available) be listed on any pleading or other submission to the court.

These amendments were effective on February 15, 1995.

**Rule 2.03 FORM OF PLEADINGS AND OTHER SUBMISSIONS  
- SPECIAL REQUIREMENTS**

(a) If demand for jury trial is contained within a pleading, the title of the pleading shall include the words "And Demand For Jury Trial" or the equivalent.

(b) If a pleading contains a prayer for injunctive relief pursuant to F.R.B.P. 7065, the title of the pleadings shall include the words "Injunctive Relief Sought" or the equivalent.

(c) If a motion or pleading requests an emergency hearing, the title of the motion or pleading shall include the words "Emergency Hearing Requested" or the equivalent. Emergency hearings shall only be held where direct, immediate and substantial harm will occur to the interest of an entity in property, to the bankruptcy estate, or to the debtor's ability to reorganize if the parties are not able to obtain an immediate resolution of any dispute. An emergency motion will not be acted upon or set for an emergency hearing without completion and filing of a Certificate of Necessity of Request for Emergency Hearing in the form available from the Clerk's office setting forth sufficient facts justifying the need for an emergency hearing.

(d) If a filed pleading or other submission is in support of or opposition to a matter calendared for hearing, the hearing date and time shall be placed beneath the case number.

(e) A motion, application, or objection shall include a statement of the estimated total time required for hearing.

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***Notes of Advisory Committee***

***1995 Amendment***

Local Rule 2.03(c) has been amended to make clear that the Certificate of Necessity of Request for Emergency Hearing which must be filed in connection with an emergency motion must set forth sufficient facts to justify the need for an emergency hearing.

These amendments were effective on February 15, 1995.

## Rule 2.04 GENERAL FILING REQUIREMENTS

(a) Petitions:

- (1) Chapter 7 - Original plus two\* copies.
- (2) Chapter 9 - Original plus five\* copies.
- (3) Chapter 11 - Original plus four\* copies.
- (4) Chapter 12 - Original plus three\* copies.
- (5) Chapter 13 - Original plus three\* copies.

(\*additional copy required in Tampa Division for counter logs)

(b) The statement of financial affairs, schedules, statement of intentions and list of equity security holders shall be filed with the same number of copies as the petition. A copy of these shall also be served on the U.S. Trustee.

(c) Statement of Assistance.

In a case of an individual filing a petition commencing a bankruptcy case who is not represented by an attorney, the petition shall be accompanied by an executed statement of assistance received in connection with the filing of the case in a form available from the Clerk's Office.

(d) Chapter 12 or 13 Plan.

Sufficient copies of the plan must be provided to the Clerk's office for transmission to each creditor in addition to the original and three copies.

(e) Master Mailing Matrix.

(1) A master mailing matrix must accompany each petition. The master mailing matrix shall be provided both in a computer readable format designated and published from time to time by the Clerk and on an Avery Label 5351, 33 block, or similar product as may be from time to time designated and published by the Clerk. The matrix in the Avery Label 5351 or similar product format shall be an original and not a duplication. In the event an attorney, bankruptcy petition preparer, or pro se debtor is unable to provide the matrix in computer readable format, the attorney or debtor shall follow such directions as the Clerk may reasonably give to facilitate the conversion of the matrix into computer readable format.

(2) The matrix submitted on paper shall include the names and addresses of the debtor, any joint debtor, the attorney for the debtor or debtors, and the United States Trustee. The matrix submitted in computer readable format shall not include that information. Thereafter, the matrix submitted in both formats shall include, in alphabetical order, the names and complete mailing addresses of all creditors and any general partners of the debtor.

(3) In Chapter 11 cases, in addition to the formal list of creditors holding the twenty (20) largest unsecured claims required pursuant to F.R.B.P. 1007(d), the debtor shall prepare and file a mailing matrix to include the names and addresses of the debtor, the debtor's attorney, the United States Trustee, and the creditors holding the twenty (20) largest unsecured claims. Upon appointment of a committee, the Clerk shall add to the mailing matrix required by this subsection the names and addresses of the committee members, counsel for the committee, if any, authorized agents of the committee, if any, and shall delete therefrom the names and addresses of the creditors holding the twenty (20) largest unsecured claims. The clerk shall also add parties to this matrix pursuant to Rule 2.19(e) of these rules. This list shall be referred to as the "Local Rule 2.04 Parties in Interest List."

(f) Equity Security Holders Mailing Matrix.

In addition, in cases where there are equity security holders (except publicly traded equity securities), a separate mailing matrix, titled "Equity Security Holders Matrix," shall be filed in conformance with paragraph (e) above.

(g) Minimum Filing Requirements.

The following shall be submitted with the petition for relief:

Chapters 7 or 13 - Copies of the petition as specified in subparagraph (a) above and a creditor matrix.

Chapters 9 and 11 - Copies of the petition as specified in subparagraph (a) above, creditor matrix, equity security holders matrix (in cases involving Chapter 11 debtors), Exhibit A to Official Form No. 1 (if debtor is a corporation), and list of twenty largest unsecured creditors (for Chapter 11 only).

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*Notes of Advisory Committee*

*1996 Amendment<sup>3</sup>*

The amendment to Local Rule 2.04(e)(1) requires that the master mailing matrix be submitted in computer readable format in all cases regardless of size as well as in traditional paper form. This computer readable format requirement is necessitated by the Court's use beginning in 1996 of the Bankruptcy Noticing Center to print and mail most notices required to be given all creditors in bankruptcy cases. The Bankruptcy Noticing Center is a national computer center that will generate notices for all bankruptcy courts across the country. The Court must provide the data the Center uses to generate the notices in a computer data base format. Thus, the Court will need the names and addresses of all creditors and parties in interest as part of its data base so it can provide this information to the Center when required for notices.

The Committee recognizes that most attorneys representing debtors and bankruptcy petition preparers have computer office equipment that makes preparing the matrix in computer readable format as easy as preparing the matrix on paper. For most attorneys and preparers, therefore, the new requirement should present no problem or burden. In the case of attorneys, preparers, and pro se debtors who do not have the capability to provide easily a computer readable matrix, the Clerk will determine the reasonable and appropriate way in which to convert the matrix into computer readable format. In some cases, the Clerk may choose simply to have the Clerk's office staff retype the matrix into the required computer readable form. In other cases, the Clerk may choose to provide the attorney, preparer, or pro se debtor with access to the Court's computer equipment so the attorney, preparer, or debtor can create the required matrix. In either case, the attorney, preparer, or pro se debtor shall follow the Clerk's directions.

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<sup>3</sup>This amendment was adopted by Order Amending Local Rule 2.04 and 2.06, No. 96-0001-MIS-FLM, dated July 23, 1996. The Local Rules Lawyers' Advisory Committee also prepared the Notes accompanying the amendment.

The amendment to Local Rule 2.04(e)(2) provides that only the matrix submitted in paper form shall contain the names and addresses of the debtor, any joint debtor, the attorney for the debtor or debtors, and the United States Trustee. The matrix submitted in computer readable format shall not include this information because the Court's computer system automatically adds this information from the data base to the computer file used to generate all creditors' notices.

These amendments were effective August 1, 1996.

### ***1995 Amendment***

New subparagraph (c) to Local Rule 2.04 adds a requirement that individuals in bankruptcy cases who are not represented by an attorney are required to file with the petition an executed statement of assistance received in connection with the filing of the case in a form available from the Clerk's Office.

Local Rule 2.04(e)(1) has been amended to require that in any case in which the number of creditors exceeds fifty (50), the master mailing matrix shall be provided in a computer readable format designated and published from time to time by the Clerk. In all other cases, the master mailing matrix may be provided in either the computer readable format or on an Avery Label 5351, 33 block, or similar product as may be from time to time designated and published by the Clerk.

Local Rule 2.04(e)(3) has been amended to provide, consistent with current practice, that upon appointment of a committee, the Clerk shall add to the mailing matrix the names and addresses of the committee members, counsel for the committee, and any authorized agents of the committee, and shall delete therefrom the names and addresses of the creditors holding the twenty (20) largest unsecured claims.

These amendments were effective on February 15, 1995.

### **Rule 2.05 JOINT ADMINISTRATION**

If a husband and a wife file a joint petition, or if an involuntary petition is filed against a husband and a wife, the trustee shall administer their estates jointly without order of the court. If the trustee, a debtor or any other party in interest desires that the trustee administer the estates separately, that party may move for an order of separate administration.

## **Rule 2.06 AMENDMENTS TO SCHEDULES**

(a) This rule applies to amendments to schedules, petitions, lists, matrices, and statements of financial affairs.

(b) The amendment shall be made by filing the original and two copies with the Clerk, one copy for the United States Trustee and one for the trustee. Amendments must contain a caption including the case number and the title, and should only contain additional, or indicate deleted information.

(c) The amendment must be executed and verified under penalty of perjury by the debtor and attorney of record in the same manner that the item being amended was originally executed.

(d) Amendments that add ten or more creditors shall comply with the provisions of Local Rule 2.04(e) applicable to the submission of the master mailing matrix with the original petition.

(e) The debtor shall give notice of the amendment to any entity or entities affected thereby and, where applicable, the trustee, and file a proof of service with the Clerk.

(f) Amendments that require additional notices to creditors, such as those adding additional creditors, require the prescribed filing fee.

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### ***Notes of Advisory Committee***

#### ***1996 Amendment<sup>4</sup>***

Local Rule 2.06(d) is new. It requires that amendments that add ten or more creditors shall be submitted both in computer readable format and in traditional paper format in the same manner as the master mailing matrix that accompanies the original petition. Those requirements are contained in Local Rule 2.04(e).

Existing subsections (d) and (e) are relettered (e) and (f), respectively, to accommodate new subsection (d).

These amendments were effective August 1, 1996.

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<sup>4</sup>This amendment was adopted by Order Amending Local Rule 2.04 and 2.06, No. 96-0001-MIS-FLM, dated July 23, 1996. The Local Rules Lawyers' Advisory Committee also prepared the Notes accompanying the amendment.

### ***1995 Amendment***

This rule is amended to substitute the term "proof of service" for "certificate of service" as required by amended Rule 2.19(a). The other amendment to Local Rule 2.06(d) is stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

## **Rule 2.07 AMENDMENTS TO PLEADINGS AND OTHER SUBMISSIONS**

(a) Unless otherwise directed by the Court, any party permitted to amend a pleading, motion or other paper filed with the Court shall file the amended pleading in its entirety with the amendments incorporated therein.

(b) Except for amended complaints, counterclaims, third party complaints or cross claims, amendments to motions, applications, or the like should designate in the caption the reference and the date of the motion, application or the like that is being amended.

**Rule 2.08 CONTINUANCES;  
NOTICES OF SETTLEMENTS; DISMISSALS**

(a) No trial, hearing or other proceeding shall be continued upon stipulation of counsel alone, but a continuance may be allowed by order of the Court for good cause shown.

(b) All motions for continuance should set forth the date and time of the hearing to be continued, the amount of time requested to elapse before the matter is to be rescheduled and the reasons therefor, the reasons for the continuance, a statement that the movant has conferred with counsel for opposing parties concerning the requested continuance, and the position of other parties concerning the motion for continuance.

(c) Counsel should submit a proposed order with the motion containing blank spaces for the Clerk to enter dates for the continued hearing, and counsel must provide copies and self-addressed stamped envelopes for all parties.

(d) All requests for continuances of meetings scheduled pursuant to 11 U.S.C. § 341 shall be directed to the U.S. Trustee.

(e) Absent unusual circumstances, all motions for continuance of trials or lengthy hearings of one hour or more must be filed at least three (3) weeks prior to the scheduled trial or hearing, and all motions for continuance of hearings of lesser duration must be filed at least two (2) weeks prior to the scheduled hearing.

(f) No hearing for which all creditors have received notice may be cancelled. In the event that a matter has been settled in the advance of such a hearing, it will still be called for hearing.

(g) On a hearing on a motion for relief from the automatic stay, a continuance will only be granted if the party seeking relief from the automatic stay waives the time limitations set forth in 11 U.S.C. § 362(e).

(h) All hearings may be continued from time to time by announcement made in open Court without further written notice.

(i) Upon the settlement of any trial or motion that will totally conclude the pending matter, counsel for the plaintiff or movant shall immediately notify the Clerk's office or chamber's personnel that the matter has been settled, and that appropriate papers to conclude the matter will be forthcoming immediately.

If the hearing has not been noticed to all creditors, the Court in its discretion may cancel the hearing or may require counsel to appear at the time set for the hearing to dictate the settlement into the record.

(j) When notified that an adversary proceeding has been settled and for purposes of administratively closing the file, the court may order that a proceeding be dismissed subject to the right of any party to file a motion within fifteen (15) days thereafter (or within such other period of time as the Court may specify) for the purpose of entering a stipulated form of final order or judgment; or, on good cause shown, to reopen the proceeding for further proceedings.

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*Notes of Advisory Committee*

*1995 Amendment*

Local Rule 2.08(g) has been moved and renumbered 2.08(i). No substantive change is intended.

Local Rule 2.08(j) is new. It provides that, upon notification that an adversary proceeding has been settled, the proceeding may be administratively closed. For purposes of entering a stipulated form of final order or judgment or in the event that the parties are unable to satisfactorily conclude documentation of the settlement, the court may reopen the proceeding. The amendment is substantially similar to District Court Local Rule 3.08(b).

These amendments were effective on February 15, 1995.

## **Rule 2.09 JUDGMENTS BY DEFAULT**

(a) When a party seeks a default judgment as a result of a defendant's failure to respond after being served with a complaint, if otherwise appropriate, the Court may enter a default judgment upon being provided with the following:

(1) Motion for entry of default.

(2) Proposed entry of default.

(3) Motion for judgment by default. Attached to the motion shall be an affidavit in support of the allegation set forth in the complaint.

(4) Affidavit of non-military service (where applicable).

(5) Order granting motion for judgment by default.

(6) Proposed judgment.

(b) If no responsive pleading has been filed by the time of the pretrial conference conducted in an adversary proceeding, counsel for the plaintiff shall, if not previously filed, furnish the Court with the foregoing at the time of the pretrial conference for disposition as may be appropriate under the circumstances.

(c) The motion for entry of default shall state that service was duly effectuated in compliance with the Federal Rules of Bankruptcy Procedure, that no extension of time was sought or obtained by the defendant, that the defendant failed to file a responsive pleading or motion within the time specified and that the movant seeks an entry of default.

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### ***Notes of Advisory Committee***

#### ***1995 Amendment***

The amendments to Local Rule 2.09(a) and (c) are stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

## **Rule 2.10 OBJECTIONS TO CLAIMS**

(a) Objections to claims shall state the legal and factual basis for the objection and the amount of the debt conceded, if any.

(b) For purposes of F.R.B.P. 3007, service of an objection to a proof of claim shall be sufficient if it is served on the claimant by mailing a copy by prepaid, first class United States mail to:

(1) the agent or representative of the claimant who executed the proof of claim, if the name and address of the agent or representative are legibly stated in the proof of claim; or

(2) if the name and address of the agent or representative are not legibly set forth in the proof of claim, the claimant at all addresses given for the claimant in the proof of claim. When the claimant is a domestic or foreign corporation, a partnership, or other unincorporated association, the objection shall be mailed to the attention of an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to the claimant.

(c) If the claimant is a governmental entity or an insured depository institution, the objection shall also be served in the manner required by F.R.B.P. 7004.

(d) All proposed orders on objections to claims shall recite in the ordering paragraph that the objection is either sustained or overruled and that the claim is either allowed or disallowed.

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### ***Notes of Advisory Committee***

#### ***1995 Amendment***

F.R.B.P. 3007 requires that objections to the allowance of claims be served on "the claimant, the debtor or the debtor in possession and the trustee." Local Rule 2.10 deals with how the claimant who has filed a proof of claim is to be served with such an objection.

The amendment to subparagraph (b)(1) clarifies that objections to proofs of claim must be served on the agent or representative of the claimant who executed the proof of claim if that person's name and address are legibly stated in the proof of claim.

The amendment to subparagraph (b)(2) clarifies that, if this information is not legibly contained in the proof of claim, then the claimant must be served at all addresses given for the claimant in the proof of claim. This amendment also makes clear that, when the claimant is a corporation, partnership, or other unincorporated association, such an objection must be mailed to the attention of an officer, a managing or general agent, or other authorized agent of the claimant.

The amendment to subparagraph (c) is necessitated by Section 114 of the Bankruptcy Reform Act of 1994. This legislation amended F.R.B.P. 7004 by providing additional certified mail service requirements for insured depository institutions. In addition, the amendment continues the existing requirement that governmental entities also must be served in the special manners set forth in F.R.B.P. 7004.

These amendments were effective on February 15, 1995.

## **Rule 2.11 PROPOSED ORDERS AND JUDGMENTS**

(a) All proposed orders shall carry a full, descriptive title detailing the nature of the motion or application ruled upon and shall state the date of the hearing.

(b) No proposed order or judgment will be signed where the date or signature is the only text on a page.

(c) All proposed orders and judgments shall be submitted with sufficient copies and stamped and addressed envelopes to be mailed to all parties who are to receive copies.

(d) All orders should carry the full case number and set forth the judge's complete signature block and should be submitted within three (3) days after the date of the hearing.

(e) Proposed orders should also recite the events that resulted in the entry of the order with phrases such as "after a hearing," "after due notice and no response having been filed," or "after due notice and a consent having been filed." Likewise if orders involve real estate that is property of the estate, a full and complete legal description is required.

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### ***Notes of Advisory Committee***

#### ***1995 Amendment***

The amendments are stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

## **Rule 2.12 LIEN AVOIDANCE UNDER 522(f)**

A motion to avoid a lien or liens under 11 U.S.C. § 522(f) shall be filed and served in accordance with F.R.B.P. 7004 and 9014 and may name only one creditor as respondent. A separate motion is required for each creditor whose lien or transfer is sought to be avoided. The motion shall be verified or be accompanied with an affidavit and shall describe with specificity the nature of the lien, recording information, if applicable, and the property affected with legal description or itemization, as appropriate.

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### *Notes of Advisory Committee*

#### *1995 Amendment*

The amendment is stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

**Rule 2.13 EXHIBITS**

(a) Prior to an evidentiary hearing or trial of an adversary proceeding or a contested matter, counsel for the parties shall mark and list any exhibits proposed to be introduced into evidence in compliance with this rule.

(b) Each exhibit shall be tagged separately with a tag containing the following information:

Rec. as _____	Ex. No. _____
For I.D. ___ or Evidence ___ (Ck. one)	
Case No. _____	Adv. No. _____
Attorney Submitting _____	
Party Submitting _____	
This ___ day of _____, 19____.	
By: _____, Deputy Clerk	

(c) Exhibits should be identified numerically commencing with number 1.

(d) All exhibits must be listed, in order, on a separate sheet of paper which shall include the case number, adversary number, debtor's name, designation as to plaintiff and defendant, and columns with the following headings: For I.D., In Evidence, Exhibit Number, Plaintiff, Defendant, Description.

(e) The original and one copy of the documentary exhibits and listing of exhibits shall be furnished to the Clerk at the commencement of the hearing or trial. An additional copy shall be made available for use by witnesses. In addition, copies of all documentary exhibits and the listing of exhibits shall be exchanged between counsel.

(f) All exhibits produced at hearing or trial which are not premarked shall be tendered to and marked by the Clerk as they are presented in evidence.

(g) Counsel will offer photographs with exhibits other than documents and will offer 8 1/2 x 11 inch reductions along with documentary exhibits larger than 8 1/2 x 14 inches. Counsel will attach exhibit tags to both exhibits and substitutes, identifying corresponding exhibits and substitutes with the same number. Unless the Court orders otherwise, at the conclusion of the trial or hearing at which the exhibits are offered, if the clerk has custody of substitutes, the clerk will return the corresponding original exhibits to counsel.

(h) If an appeal is taken, substitutes will be included in the record on appeal.

(i) Upon the expiration of thirty (30) days after an order or judgment concluding a contested matter or an adversary proceeding is entered, including the entry of an order determining any post-judgment motions, provided that no appeal is pending, or if an appeal is taken, upon filing of the mandate, the Clerk may notify the party who offered exhibits and discovery materials in connection with such contested matter or adversary proceeding of the requirement that such exhibits must be removed within thirty (30) days. If such exhibits and discovery materials are not removed within thirty (30) days from the date of such notice, the Clerk may destroy them or make such other disposition as the Court may direct.

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### *Notes of Advisory Committee*

#### *1995 Amendment*

The amendment to Local Rule 2.13(e) requires that additional copies of exhibits shall be made available for use by witnesses. The deletion of the word "period" after "trial" is stylistic; no substantive change is intended.

The provisions in Local Rule 2.13(h), which dealt with notification to counsel of the obligation to pick up exhibits and the consequence of the failure to do so, have been deleted as this is now dealt with exclusively by Local Rule 2.13(i).

For purposes of Local Rule 2.13(i), the term "post-judgment motion" shall mean a timely motion: (1) to amend or make additional findings of fact under F.R.B.P. 7052, whether or not

granting the motion would alter the judgment; (2) to alter or amend the judgment under F.R.B.P. 9023; (3) for a new trial under F.R.B.P. 9023; or (4) for relief under F.R.B.P. 9024 if the motion is filed no later than ten (10) days after the entry of judgment.

These amendments were effective on February 15, 1995.

**Rule 2.14 NOTICE OF ORAL DEPOSITIONS**

**[ABROGATED]**

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*Notes of Advisory Committee*

*1995 Amendment*

This is a technical amendment. The rule is deleted and the content of the rule is transferred to paragraphs (c) and (d) of Local Rule 2.15. No constriction in meaning or content is intended.

These amendments were effective on February 15, 1995.

**Rule 2.15 DISCLOSURE AND DISCOVERY IN  
CONTESTED MATTERS AND ADVERSARY PROCEEDINGS.**

(a) Initial and subsequent disclosure requirements described in F.R.Civ.P. 26(a)(1-4), made applicable to contested matters and adversary proceedings by F.R.B.P. 9014 and 7026, are not mandatory, except as stipulated by the parties or otherwise ordered by the Court.

(b) The meeting of the parties and reporting to the Court requirements of F.R.Civ.P. 26(f), made applicable to contested matters and adversary proceedings by F.R.B.P. 9014 and 7026, are not mandatory, except as stipulated by the parties or otherwise ordered by the Court.

(c) Unless the Court orders the application of the meeting of the parties requirement of F.R.Civ.P. 26(f), the parties may initiate any method of discovery immediately after service is accomplished under F.R.B.P. 7004.

(d) Unless the Court orders otherwise, depositions upon oral examination of any person may be noticed on no less than ten (10) days notice in writing to every other party to the contested matter or adversary proceeding and to the deponent.

(e) Written interrogatories shall be so prepared and arranged that a blank space shall be provided after each separately numbered interrogatory. The space shall be reasonably calculated to enable the answering party to insert the answer within the space.

(f) The original of the written interrogatories and a copy shall be served on the party to whom the interrogatories are directed, and copies on all other parties. No copy of the written interrogatories shall be filed with the Clerk by the party propounding them. The answering party shall use the original of the written interrogatories for the answers and objections, if any; and the original shall be returned to the party propounding the interrogatories with copies served upon all other parties. The interrogatories as answered or objected to shall not be filed with the Clerk as a matter of course, but may later be filed by any party in whole or in part if necessary to the presentation and consideration of a motion to compel, a motion for summary judgment, a motion for injunctive relief, or other similar proceedings.

(g) Notices of the taking of oral depositions shall not be filed with the Clerk as a matter of course (except as necessary to presentation and consideration of motions to compel); and transcripts of oral depositions shall not be filed unless and until ordered by the Court.

(h) Requests for the production of documents and other things, and requests for admission, and answers and responses thereto, shall not be filed with the Clerk as a matter of course but may later be filed in whole or in part if necessary to the presentation and consideration of a motion to compel, a motion for summary judgment, a motion for injunctive relief, or other similar proceedings.

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*Notes of Advisory Committee*

*1995 Amendment*

*Introduction*

This rule is amended to reflect the Advisory Committee's judgment as to the desirability of applying the December 1, 1993, amendments to the Federal Rules of Civil Procedure to contested matters and adversary proceedings and to make other desirable technical changes.

The December 1, 1993, amendments to the Federal Rules of Civil Procedure greatly affect practice in contested matters and in adversary proceedings. F.R.B.P. 7016, 7026, 7030, 7031, and 7033 extend the application of F.R.Civ.P. 16, 26, 30, 31 and 33 to adversary proceedings. In addition, unless the Court otherwise directs, F.R.B.P. 9014 extends the application of F.R.Civ.P. 26, 30, 31, and 33 to contested matters pursuant to F.R.B.P. 7026, 7030, 7031 and 7033. Although the Advisory Committee deems certain of the December 1, 1993, amendments to be desirable and beneficial to practice in contested matters and adversary proceedings in this Court, it believes that other of the amendments may not be practically or beneficially implemented. The Advisory Committee therefore intends here that the Court "opt out" of certain of these amendments to the Federal Rules of Civil Procedures as they are made applicable to contested matters and adversary proceedings.

### ***Disclosure and Meeting of Counsel***

F.R.Civ.P. 26(a)(1-4) now mandates the disclosure of certain relevant information. Paragraph (a) of Local Rule 2.15 therefore provides that these new disclosure requirements apply to contested matters and adversary proceedings only if the parties agree or if the Court orders that some or all of the disclosure requirements apply.

F.R.Civ.P. 26(f) now requires a meeting of the parties and the filing of a proposed discovery plan within certain prescribed time limits. Paragraph (b) of Local Rule 2.15 therefore provides that these meetings and reporting requirements apply in contested matters and in adversary proceedings only upon the agreement of the parties or upon order of the Court.

### ***Initiation of Discovery***

F.R.Civ.P. 26(d), 30(a)(2)(C), 31(a)(2)(C), 33(a), 34(b), and 36(a) now generally preclude the initiation of any method of discovery until after the parties meet as required by F.R.Civ.P. 26(f), unless the parties agree or the Court otherwise orders. Because the Court has eliminated, in paragraph (b), the meeting of the parties requirement of F.R.Civ.P. 26(f) unless the Court specifically orders its application, paragraph (c) provides that the parties may initiate discovery immediately after service of the motion or other paper initiating contested matters and the summons and complaint in adversary proceedings. If the Court orders the application of the meeting of the parties requirement

of F.R.Civ.P. 26(f), however, the early initiation of discovery authorized in paragraph (c) would not apply and the parties would be precluded from initiating discovery until after the F.R.Civ.P. 26(f) meeting unless they agreed or the Court orders to the contrary. Paragraph (c) also continues the meaning and intent of former Rule 2.14 as to depositions upon oral examination.

### ***Depositions***

Paragraph (d) continues the policy of former Rule 2.14 that depositions be noticed on no less than ten days written notice.

F.R.Civ.P. 30(a)(2)(A) and F.R.Civ.P. 31(a)(2)(A) now limit to a total of ten the number of depositions upon oral examination and written questions unless the Court authorizes or the parties stipulate to a greater number. The Advisory Committee believes this to be the appropriate presumptive number of depositions in contested matters and adversary proceedings, and the Advisory Committee therefore has not proposed an amendment setting a different presumptive number.

### ***Interrogatories***

F.R.Civ.P. 33(a) now limits each party to 25 written interrogatories including all discreet subparts unless, by order of the Court or written stipulation, a greater number is authorized. The Advisory Committee agrees that this is the appropriate presumptive number of interrogatories in contested matters and in adversary proceedings. As a consequence, the Advisory Committee has deleted the provisions of former paragraph (a) that allowed 50 written interrogatories.

Paragraphs (e) and (f) are former paragraphs (b) and (c) without substantial change. They continue the manner in which interrogatories are to be prepared, served, and answered.

### ***Filing of Discovery Papers***

Paragraphs (g) and (h) are former paragraphs (d) and (e) without substantial change. These paragraphs and paragraph (f) continue the prohibition of filing discovery papers in the usual course. The technical change appearing in paragraph (g) is intended to clarify that deposition transcripts shall only be filed on order of the Court which may be obtained on motion.

These amendments were effective on February 15, 1995.

## **Rule 2.16 MOTIONS TO COMPEL OR FOR A PROTECTIVE ORDER**

(a) Motions to compel discovery pursuant to F.R.B.P. 7037, shall (1) quote in full each interrogatory, question on deposition, request for admission or request for production to which the motion is addressed; (2) the objection and grounds therefor as stated by the opposing party; and (3) the reasons such objections should be overruled and the motion granted.

(b) For the guidance of counsel in preparing or opposing contemplated motions for a protective order pursuant to F.R.B.P. 7026 related to the place of taking a party litigant's deposition, or the deposition of the managing agent of a party, it is the general policy of the Court that a nonresident plaintiff or moving party may reasonably be deposed at least once in this District during the discovery stages of the case; and that a nonresident defendant or respondent who intends to be present in person at trial or evidentiary hearing may reasonably be deposed at least once in this District either during the discovery stages of the case or within a week prior to trial or evidentiary hearing as the circumstances seem to suggest. A nonresident, within the meaning of this rule, is a person residing outside the State of Florida.

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### ***Notes of Advisory Committee***

#### ***1995 Amendment***

Former subparagraph (a) required that motions to compel discovery or for protective order contain a certificate of counsel's failed good faith efforts to resolve the dispute amicably. Substantially identical requirements now appear in F.R.Civ.P. 26(c) and 37(a)(2)(A) and are applicable to adversary proceedings and contested matters through F.R.B.P. 7026, 7037, and 9014. The provisions of former subparagraph (a) are therefore deleted as redundant.

These amendments were effective on February 15, 1995.

**Rule 2.17 WRITTEN STIPULATIONS REQUIRED**

No stipulation governing procedural matters between any parties, the existence of which is not conceded, will be considered by the Court unless it is made before the Court and noted in the record or is reduced to writing by the party or attorney against whom it is asserted.

## **Rule 2.18 JURY TRIAL**

(a) Trial by Jury. Issues triable of right by jury shall, if timely demanded, be by jury, unless the parties or their attorneys of record, by written stipulation filed with the Clerk or by an oral stipulation made in open court and entered in the record, consent to trial by the Court sitting without a jury.

(b) Demand.

(1) Time; Form. Any party may demand a trial by jury of any issue triable by a jury by serving on the other parties a demand therefor in writing not later than ten (10) days after service of the last pleading directed to such issue. The demand may be indorsed on a pleading of the party. When a jury trial is demanded it shall be designated by the Clerk in the docket as a jury matter.

(2) Specification of Issues. In the demand a party may specify the issues to be so tried; otherwise the party shall be deemed to have demanded trial by jury of all the issues so triable. If a jury trial is demanded on only some of the issues, any other party within ten (10) days after service of the demand of such lesser time as the Court may order, may serve a demand for trial by jury of any other or all of the issues.

(3) Determination by Court. On motion or on its own initiative the Court may determine whether there is right to trial by jury of the issues for which a jury trial is demanded or whether a demand for trial by jury in a proceeding on a contested petition shall be granted.

(c) Waiver. The failure of a party to serve a demand as required by this rule and to file it, as required by F.R.B.P. 5005, constitutes a waiver of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

(d) Trial by Court. Issues not demanded for trial by jury shall be tried by the Court. Notwithstanding the failure of a party to demand a jury when such a demand might have been made of right, the Court on its own initiative may order a trial by jury of any or all issues.

(e) APPLICABILITY OF CERTAIN OF THE FEDERAL RULES OF CIVIL PROCEDURE. Rules 47-51 of F.R.Civ.P. apply when a jury trial is conducted.

(f) The method of voir dire examination and exercise of challenges in selection of the jury shall be as specified by the Court. A list of the venire will be furnished to counsel only at the time the case is called for trial, and prior to commencement of voir dire examination (unless otherwise required by governing rule or statute), and must be returned to the Clerk when the jury is empaneled. No person shall copy from or reproduce, in whole or in part, a list of the venire.

(g) All requests for instructions to the jury shall be submitted in writing within the time specified by the Court. Such requests, and supplemental requests, if any, shall be marked with the name and number of the case, shall designate the party submitting the request, shall be numbered in sequence, and shall contain citation of supporting authorities, if any.

(h) No attorney or party shall undertake, directly or indirectly, to interview any juror after trial in any civil case except as permitted by this rule. If a party believes that grounds for legal challenge to a verdict exists, the party may move for an order permitting an interview of a juror or jurors to determine whether the verdict is subject to the challenge. The motion shall be served within ten (10) days after rendition of the verdict unless good cause is shown for the failure to make the motion within that time. The motion shall state the name and address of each juror to be interviewed and the grounds for the challenge that the moving party believes may exist. The presiding judge may conduct such hearings, if any, as necessary, and shall enter an order denying the motion or permitting the interview. If the interview is permitted, the Court may prescribe the place, manner, conditions, and scope of the interview.

**Rule 2.19 PROOF OF SERVICE AND REQUIREMENTS  
FOR PROVIDING NOTICES**

(a) Whenever proof of service is required by the Federal Rules of Bankruptcy Procedure, Local Rule, or order of the Court (other than proof of initial service required to be made pursuant to F.R.B.P. 9014 or 7004), the proof shall take the following form:

(1) If made by an attorney appearing in the case or proceeding pursuant to the provisions of Rule 1.07, the attorney may make a certificate of service stating the date and manner of service and the name and address of the person served, certified by the signature of the attorney who made the service.

(2) If made by a person other than an attorney appearing in the case or proceeding pursuant to the provisions of Rule 1.07, the non-attorney shall make a statement under penalty of perjury stating the date and manner of service and the name and address of the person served, signed and sworn to by the non-attorney who made the service and including the non-attorney's name, address, and relation to the party on whose behalf the service is made.

(3) Where a reference is made to service on a group such as "to all creditors on the matrix," the proof of service shall attach a copy of the list or mailing matrix used. The matrix shall be one obtained from the Clerk within ten (10) days before the date of service.

(4) The proof of service shall refer to the pleading or other paper being served and shall affirmatively reflect the service of any exhibits thereto.

(5) Proof of service may appear on or be affixed to the paper served or it may be separately filed. In either event, the proof of service shall be filed promptly after the making of the service.

(6) Proof of service made in accordance with the provisions of this rule shall be taken as prima facie proof of service.

(b) The Clerk may require the debtor, the trustee or other party in interest filing a petition, a complaint, an objection or other pleading for which a notice may be required, to provide for the preparation and the mailing of such notice as the Court may designate and to cause to be filed with the Clerk proof of service. Notwithstanding the foregoing, the Clerk will excuse a trustee in a no asset case from paying the cost of preparation and mailing of such notices.

(c) Notices shall be in such form as may be directed by the Clerk or as may be ordered by the Court. All notices shall bear the return address of the Court.

(d) The cost or expense incurred in providing such notices and related services shall be an administrative expense to be paid or reimbursed pursuant to 11 U.S.C. § 503(a). If such cost or expense is consistent with, and not in excess of, a standard schedule of charges approved by the Court, the payment for such cost or expense may be approved by the Clerk without a hearing unless a party in interest shall make a timely request for and provide an appropriate notice of the time and place of the hearing.

(e) Any party in interest upon filing with the Clerk a request for notice pursuant to F.R.B.P. 2002(i) shall be placed on the Local Rule 2.04 Parties in Interest List and thereafter receive copies of all notices, orders and other pleadings which are served on the parties listed on the Local Rule 2.04 Parties in Interest List. The request for notices shall be served on the trustee or debtor-in-possession, as appropriate.

(f) If the Court directs an attorney for a party to serve an order, it shall be served within three (3) days of its having been entered by the Court and the attorney shall thereafter promptly file a proof of such service.

(g) Upon closing of a case under Chapter 7, the trustee may, upon thirty (30) days written notice to the debtor, debtor's attorney, and Internal Revenue Service, destroy any books or records in the Trustee's possession.

(h) Where a party is authorized by the Federal Rules of Bankruptcy Procedure, Local Rule, or order of the Court to give notice of a hearing or the time in which an objection or request for hearing is required, such notice shall be on the face of the first page of such notice, pleading or other submission.

(i) Rule 3.03 shall also govern notices in cases under Chapters 11, 12 and 13.

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*Notes of Advisory Committee*

*1995 Amendment*

The term "proof of service" has been substituted for the term "certificate of service" consistently throughout these amendments when proof of service is required. Amended paragraph (a) establishes the manner in which that proof is to be made. Amended paragraphs (a)(1) and (a)(2) provide that attorneys appearing in a case or proceeding may make proof of service by filing a certificate of service while all others must file a statement under penalty of perjury. This carries forward the intent of former paragraph (g) as to permitting only attorneys to file certificates of service. It also clarifies that non-attorneys may make proof of service if they do so under oath.

The provisions of subparagraph (a)(1) allowing attorneys to make certificates of service do not apply to proof of initial service of contested matters and adversary proceedings required to be made pursuant to F.R.B.P. 9014 or 7004. The requirements for proof of this initial service are included in F.R.B.P. 7004 itself. Specifically, F.R.B.P. 7004(a) and (g) apply F.R.Civ.P. 4(g) in effect on January 1, 1990. Among other things, that rule requires that proof of such initial service shall be made by affidavit unless the person making the service is a United States marshal or deputy marshal.

Subparagraph (a)(3) is former paragraph (b) with the new requirement that the matrix used with a proof of service shall be a current one obtained from the Clerk.

Subparagraph (a)(4) is former paragraph (h) with minor modifications.

Subparagraphs (a)(5) and (a)(6) are new, but are consistent with better practice and the requirements of other rules, such as F.R.A.P. 25(d) and Fla.R.Civ.P. 1.080(f).

Other amendments are clarifying or are required by the restructuring of the rule described above.

These amendments were effective on February 15, 1995.

## **Rule 2.19A NEGATIVE NOTICE PROCEDURE**

(a) The following motions, objections, and other matters may be considered by the Court without an actual hearing under the negative notice procedure described in this rule if no party in interest requests a hearing:

(1) Motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to F.R.B.P. 4001(d).

(2) Motions to avoid liens on exempt property pursuant to F.R.B.P. 4003(d).

(3) Motions to use, sell, or lease property not in the ordinary course of business pursuant to F.R.B.P. 6004(a) but not motions to sell property free and clear of liens or other interests pursuant to F.R.B.P. 6004(c).

(4) Notices of abandonment pursuant to F.R.B.P. 6007(a) and motions to compel abandonment pursuant to F.R.B.P. 6007(b).

(5) Motions to approve compromises or settlements pursuant to F.R.B.P. 9019(a).

(6) Other motions, objections, and matters if permitted by the presiding judge.

(b) Motions, objections, and other matters filed pursuant to this negative notice procedure shall:

(1) Be served in the manner and on the parties as required by the provisions of the Federal Rules of Bankruptcy Procedure, Local Rule, or any order of Court applicable to motions, objections, or matters of the type made and shall be filed with the proof of such service.

(2) Contain a negative notice legend prominently displayed on the face of the first page of the paper. The negative notice legend shall be in a form substantially as follows:

**NOTICE OF OPPORTUNITY TO  
OBJECT AND FOR HEARING**

**Pursuant to Local Rule 2.19A, the Court will consider this motion, objection, or other matter without further notice or hearing unless a party in interest files an objection within [number] days from the date of service of this paper. If you object to the relief requested in this paper, you must file your objection with the Clerk of the Court at [address], and serve a copy on the movant's attorney, [name and address, and any other appropriate persons].**

**If you file and serve an objection within the time permitted, the Court will schedule a hearing and you will be notified. If you do not file an objection within the time permitted, the Court will consider that you do not oppose the granting of the relief requested in the paper, will proceed to consider the paper without further notice or hearing, and may grant the relief requested.**

(3) The number of days in which parties may object that is placed in the negative notice legend shall be 20 days except:

(i) in the case of motions to approve agreements relating to relief from the automatic stay, prohibiting or conditioning the use, sale, or lease of property, providing adequate protection, use of cash collateral, and obtaining credit pursuant to F.R.B.P. 4001(d), the time shall be 15 days; and

(ii) in the case of objections to proofs of claim pursuant to F.R.B.P. 3007, the time shall be 30 days.

(c) In the event a party in interest files an objection within the time permitted in the negative notice legend, the Court will schedule a hearing on the motion, objection, or other matter upon notice to the movant's attorney, the objecting party or parties, and others as may be appropriate.

(d) In the event no party in interest files an objection within the time permitted in the negative notice legend as computed under F.R.B.P. 9006(a) and (f), the Court will consider the matter in chambers without further notice or hearing upon the submission by the movant of a proposed form of order granting the relief. The movant shall submit the proposed order not later than ten (10) days after the expiration of the objection period. In the event the movant fails to submit a proposed form of order within this time, the Court may enter an order denying the matter without prejudice for lack of prosecution. In addition to any other requirements, the proposed form of order shall recite that:

(1) The motion, objection, or other matter was served upon all interested parties with the Local Rule 2.19A negative notice legend informing the parties of their opportunity to object within 20 (or other) days of the date of service;

(2) No party filed an objection within the time permitted; and

(3) The Court therefore considers the matter to be unopposed.

(e) Nothing in this rule is intended to preclude the Court from conducting a hearing on the motion, objection, or other matter even if no objection is filed within the time permitted in the negative notice legend.

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*Notes of Advisory Committee*

*1995 Amendment*

The rule codifies the negative notice procedure that has been in use, in varying degrees, in the Court for some time. As authorized by 11 U.S.C. § 102(1), orders required to be entered "after notice and a hearing," or a similar phrase in the Bankruptcy Code or Federal Rules of Bankruptcy Procedure, may be entered without an actual hearing if appropriate notice is given and no party in interest requests a hearing. This rule is intended to give effect to this authorization in those kinds of matters that experience teaches frequently trigger no opposition. The Advisory Committee considers that this rule will substantially enhance the efficiency and economy of the practice in the Court.

Subparagraph (a)(6) contemplates that the list of motions authorized to be made under the negative notice procedure, as set forth in subparagraph (a)(1) through (a)(5), may be expanded if authorized by the presiding judge for matters heard by that judge.

Although the Advisory Committee foresees that the rule will normally be used in connection with motions, it is intended by the drafters that the rule would also apply if a judge authorizes its use in matters in which an objection rather than a motion initiates the matter. For example, if authorized by a judge for matters before that judge, it could apply to objections to proofs of claim under F.R.B.P. 3007. In that case, the party filing an objection to claim would be the "movant" and the objection to claim would be the "motion" for purposes of interpreting and applying the rule.

The rule further contemplates that, when no objection to the motion is filed within the prescribed period, the Court will review the motion for procedural and substantive regularity upon the movant's submission of a proposed form of order granting the motion. The Court may schedule a hearing on the motion if the Court, for any reason, determines that the circumstances make a hearing necessary or desirable.

These amendments were effective on February 15, 1995.

**Rule 2.20 APPLICATION FOR ADMINISTRATIVE EXPENSES**

All requests for administrative expenses pursuant to 11 U.S.C. § 503(b)(1) shall be made by application filed:

(a) In a Chapter 7 case:

(i) by the claims bar date; or

(ii) for administrative expenses arising from the use of premises by a trustee, within (30) days after the surrender of the premises from the trustee; or

(iii) within (30) days after the occurrence of the last event giving rise to the claim.

(b) In Chapter 11, 12, or 13 cases within:

(i) fifteen (15) days prior to the hearing on confirmation, or any continued hearing on confirmation; or

(ii) thirty (30) days after the occurrence of the last event giving rise to the claim.

## **Rule 2.21 SALE OF PROPERTY OF THE CHAPTER 7 ESTATE**

As to all sales by a trustee in a Chapter 7 case other than a sale free and clear of liens under 11 U.S.C. § 363(f), the trustee may sell property of the estate under 11 U.S.C. § 363(b) without order of the Court provided that the trustee complies with the following requirements:

(a) The trustee shall file a report and notice of intention to sell property of the estate without further notice of hearing stating that, if no objection or request for hearing is filed and served within twenty (20) days of the date of the report and notice, the specified property will be sold without further hearing or notice.

(b) The report and notice shall be served on all creditors in compliance with F.R.B.P. 2002.

(c) If no objection or request for hearing is filed and served within twenty (20) days from the date of the report and notice, then the trustee may sell the property without further notice or hearing.

## **Rule 2.22 COURTROOM DECORUM**

(a) The purpose of this rule is to state, for the guidance of those heretofore unfamiliar with the traditions of this Court, certain basic principles concerning courtroom behavior and decorum. The requirements stated in this rule are minimal, not all-inclusive; and are intended to emphasize and supplement, not supplant or limit, the ethical obligations of counsel under the Rules of Professional Conduct or the time honored customs of experienced trial counsel. Individual judges of the Court may, in any case, or generally, announce and enforce additional prohibitions or requirements; or may excuse compliance with any one or more of the provisions of this rule.

(b) When appearing in this Court, unless excused by the presiding judge, all counsel (including, where the context applies, all persons at counsel table) shall abide by the following:

- (1) Stand as Court is opened, recessed or adjourned.
- (2) Stand when addressing, or being addressed by the Court.
- (3) Stand at the lectern while examining any witness; except that counsel may approach the Clerk's desk or the witness for purposes of handling or tendering exhibits.
- (4) Stand at the lectern while making opening statements or closing arguments.
- (5) Address all remarks to the Court, not to opposing counsel.
- (6) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
- (7) Refer to all persons, including witnesses, other counsel and the parties by their surnames and not by their first or given names.
- (8) Only one attorney for each party shall examine, or cross examine each witness. The attorney stating objections, if any, during direct examination shall be the attorney recognized for cross examination.

(9) Counsel should request permission before approaching the bench; and any documents counsel wish to have the Court examine should be handed to the Clerk.

(10) Any paper or exhibit not previously marked for identification (see Local Rule 2.13) should first be handed to the Clerk to be marked before it is tendered to a witness for examination; and any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.

(11) In making objections, counsel should state only the legal grounds for the objection and should withhold all further comment or argument unless elaboration is requested by the Court.

(12) In examining a witness, counsel shall not repeat or echo the answer given by the witness.

(13) In a case tried before a jury, offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury.

(14) In opening statements and in arguments to the jury, counsel shall not express personal knowledge or opinion concerning any matter in issue; shall not read or purport to read from deposition or trial transcripts, and shall not suggest to the jury, directly or indirectly, that it may or should request transcripts or the reading of any testimony by the reporter.

(15) Counsel shall admonish all persons at counsel table that gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at an other time, are absolutely prohibited.

(16) The proceedings of the Court are serious and dignified. All persons appearing in Court should therefore dress in appropriate business attire consistent with their financial abilities. Among other things, a coat and tie are appropriate for a man; a dress or pants suit is appropriate for a woman.

## **Rule 2.23 PROCEDURES FOR COURT-ANNEXED MEDIATION**

### (a) Appointment of Mediators:

(1) Mediation Register. The Clerk shall establish and maintain a register of qualified attorneys who have volunteered to serve as mediators in contested matters and adversary proceedings in cases pending in the Court. The attorneys so registered shall be selected by the judges from a list of attorneys who meet the qualifications hereinafter described.

(2) Qualifications of Mediator. To qualify for service as a mediator under this rule, an attorney must meet the following minimum qualifications:

(i) Be an active member of The Florida Bar, duly licensed to practice before the courts of the State of Florida and the federal courts for the Middle District of Florida;

(ii) Have been admitted to practice in a state or federal court for at least four (4) years;

(iii) In at least ten (10) bankruptcy matters, the attorney:

(1) Has served as the attorney of record for the debtor, trustee, or committee for commencement through conclusion; or

(2) Has served as the attorney of record for a party in interest in adversary proceedings or contested matter from commencement through completion; and

(3) Has completed a mediation training course which has qualified for continuing legal education credit or as been approved by a court of competent jurisdiction; or

(4) Has been qualified as a mediator under another state or federal mediation program.

(3) Mediator Application Procedures. Each attorney who wishes to be selected as a mediator must submit an application on the court approved form to the Clerk.

(4) Removal from Register. The Clerk shall remove an attorney from the register of mediators at the attorney's request or at the direction of the Court in the exercise of its

discretion. If removed at the attorney's own request, the attorney thereafter may request to be reappointed to the register without the necessity of submitting a new application. Upon receipt of such request, the Clerk shall reassign such qualified attorney to the register.

(5) Mediator's Oath. Every mediator shall take the oath or affirmation prescribed by 28 U.S.C. § 453 before serving as a mediator.

(6) Disqualification of a Mediator. Any person selected as a mediator may be disqualified for bias or prejudice as provided in 28 U.S.C. § 144 and shall be disqualified in any action in which the mediator would be required to do so if the mediator were a judge governed by 28 U.S.C. § 455.

(b) Assignment of Matters to Mediation:

(1) The Court may order the assignment of a matter or proceeding to mediation at a pretrial conference or other hearing, upon the request of any party in interest, the U.S. Trustee, or upon the Court's own motion. Notwithstanding the assignment of a matter or proceeding to mediation, the Court shall set such matter or proceeding for trial, final hearing, pretrial conference or other proceeding as is appropriate in accordance with the Federal Rules of Bankruptcy Procedure or Local Rules and procedures. The Court shall appoint a mediator and, if necessary, an alternate mediator, from the register of mediators on a blind rotation basis. If the parties stipulate to a particular person on the register of mediators, the Court may appoint that person as mediator. If the mediator is unable to serve, he or she shall file, within five (5) days after receipt of the notice of appointment, a notice of inability to serve, and the Court shall appoint the alternate as a replacement mediator. Upon assignment of a matter or proceeding to mediation, each party thereto shall comply with this rule and any requirements imposed by the Court. The Clerk shall provide copies of procedures to the parties and forms to the mediator.

(2) Notwithstanding a matter being referred to mediation, discovery and preparation for final hearing pursuant to any order setting matter for hearing or the Federal Rules of Bankruptcy Procedure shall not be stayed by mediation.

(c) Types of Cases Subject to Mediation:

(1) Unless otherwise ordered by the presiding judge, any civil action, adversary proceeding, or contested matter may be referred by the Court to mediation providing the matter, proceeding, or case has not previously been a subject of mediation in this Court.

(2) Any action, proceeding, or claim or contested matter may be referred to mediation conference upon stipulation by counsel of record.

(d) Mediation Conference:

(1) Upon consultation with the parties and their attorneys, the mediator shall fix a reasonable time and place for the mediation conference and shall give the parties at least fifteen (15) days advance written notice of the conference or such shorter time as may be agreed to by the parties. The conference shall be set as soon after the entry of the mediation order and as far in advance of the final evidentiary hearing as practicable. In keeping with the goal of prompt dispute resolution, the mediator shall have the duty and authority to establish the time for mediation activities including a deadline for the parties to act upon a settlement or upon mediated recommendation.

(2) An attorney who is responsible for each party's case shall attend the mediation conference. Each individual party and the representatives of each non-individual party shall appear with the authority to negotiate the amount and issues in dispute. The mediator shall determine when the parties are to be present in the conference room. The mediator shall report to the Court willful failure to attend the mediation conference or to participate in the mediation process in good faith, which failure may result in the imposition of sanctions by the Court.

(e) Recommendations of Mediator:

(1) The mediator shall have no obligation to make any written comments or recommendations; provided, however that the mediator in his or her discretion may furnish the attorneys for the parties with a written settlement recommendation. No copy of any such recommendation shall be filed with the Clerk or the Court.

(f) Post-Mediation Procedures:

Within ten (10) days after the mediation conference, the mediator shall file with the Court a report showing compliance or non-compliance by the parties with the mediation order and the results of the mediation. If the parties have reached an agreement regarding the disposition of the matter or proceeding, they shall prepare and submit to the Court within twenty (20) days of the filing of the mediator's report an appropriate stipulation and joint motion for approval or compromise of controversy which shall be set for hearing. Failure to file a motion to compromise controversy or motion to approve stipulation as required herein shall be a basis for the Court to impose appropriate sanction. If the mediator's report shows mediation has ended in an impasse, the matter will be tried as scheduled.

(g) Confidentiality:

Other than the official mediator's report, the mediator's questionnaire, documents and any statements made by the parties, attorneys and other participants presented or made during mediation proceedings shall, in all respects, be privileged and not reported, recorded, or placed into evidence, made known to the Court or construed for any purpose as an admission. No party shall be bound by any statement made or action taken at the mediation conference unless a settlement is reached, in which event the agreement shall be reduced to writing pursuant to paragraph (f) of this Rule. Rule 408 of the Federal Rules of Evidence shall apply to mediation proceedings.

(h) Withdrawal from Mediation:

Any action, claim, adversary proceeding or contested matter referred to mediation pursuant to these rules may be withdrawn from mediation by the presiding judge at any time upon determination for any reason the matter is not suitable for mediation. Nothing in these rules shall prohibit or prevent any party in interest, U.S. Trustee, or mediator from filing an appropriate motion to withdraw a matter from mediation for cause.

(i) Compliance with the Bankruptcy Code and Rules:

Nothing in this rule shall relieve any debtor, party in interest, or the U.S. Trustee from complying with any other orders of this Court, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or these rules.

(j) Mediation Forms:

Each presiding judge may adopt official forms to implement these procedures.

(k) Nothing in this rule is intended to limit the authority of the presiding judge to order, or the parties to agree, to mediation:

(1) by any person selected, whether or not on the mediation register or selected on a blind rotation basis;  
or

(2) by procedure different from those set forth in this rule.

If the Court orders mediation other than pursuant to the methods and procedures of this rule, the provisions of paragraphs (g) and (i) shall nevertheless apply.

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*Notes of Advisory Committee*

*1995 Amendment*

The amendment to Local Rule 2.23(b) makes clear that if the parties stipulate to a particular person on the register of mediators, the Court may appoint that person as mediator.

The amendment to Local Rule 2.23(d)(1) makes clear that the parties may agree to a shorter notice period for the mediation conference.

Paragraph (k) is new. It clarifies that the Court and the parties retain the flexibility to order or conduct mediation in ways other than that described in this rule. If the Court orders mediation other than pursuant to the methods and procedures contained in this rule, the confidentiality and compliance provisions of the rule will nevertheless apply to that mediation.

These amendments were effective on February 15, 1995.

**Rule 2.24 COSTS AND ATTORNEY'S FEES  
IN CONTESTED MATTERS AND ADVERSARY PROCEEDINGS**

In accordance with F.R.B.P. 7054, all claims for taxable costs or attorney's fees in contested matters and in adversary proceedings that are preserved by appropriate pleading or pretrial stipulation shall be asserted by separate bill of costs or motion, as appropriate, filed not later than fourteen (14) days following entry of judgment. The pendency of an appeal from the judgment shall not postpone the filing of a timely application pursuant to this rule.

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*Notes of Advisory Committee*

*1995 Amendment*

This rule is new. It is derived from District Court Local Rule 4.18 with appropriate modification for bankruptcy practice.

These amendments were effective on February 15, 1995.

### **III. PRACTICE AND PROCEDURE UNDER CHAPTERS 11, 12 AND 13**

#### **Rule 3.01 APPLICABILITY OF PART III**

Rules 3.02 through 3.06 apply to cases under Chapter 11.  
Rules 3.02, 3.03 and 3.04 shall apply to cases under Chapter 12  
and Chapter 13.

### **Rule 3.02 AUTHORITY TO OPERATE BUSINESS**

The trustee or debtor-in-possession in a Chapter 11 case may operate the business of the debtor pursuant to 11 U.S.C. § 1108 and any order of the Court specifying terms and conditions of the operation of the debtor's business.

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#### *Notes of Advisory Committee*

##### *1995 Amendment*

The amendment dispenses with the requirement for the filing of a motion for authority to operate the business of the debtor. Consistent with current practice, it is contemplated that the court will enter an order sua sponte setting forth the requirements for operating the business of the debtor. It was the view of the Advisory Committee that dispensing with the requirement of filing a motion would reduce needless paperwork for counsel and the Clerk's office.

These amendments were effective on February 15, 1995.

### **Rule 3.03 NOTICES TO CREDITORS**

Unless the Court otherwise orders, pursuant to F.R.B.P. 2002(a) and (d), the moving party is directed to give all notices required by that Rule in every case that involves more than fifty (50) creditors or parties in interest. However, pursuant to F.R.B.P. 2002(i), the notices required by F.R.B.P. 2002(a)(2), (3) and (7) may be mailed only to the parties on the Local Rule 2.04 Parties in Interest List. Proof of service for each notice shall be filed with the Court.

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#### ***Notes of Advisory Committee***

##### ***1995 Amendment***

This rule is amended to substitute the term "proof of service" for "certificate of service" as required by amended Rule 2.19(a). The provisions as to the content of the proof and the time for filing the proof are deleted because those subjects are now contained in amended Rule 2.19(a).

These amendments were effective on February 15, 1995.

### **Rule 3.04 APPLICATIONS FOR COMPENSATION OF PROFESSIONALS**

In order to be considered at the confirmation hearing, applications of attorneys, accountants, auctioneers, appraisers and other professionals for compensation from the estate of the debtor pursuant to 11 U.S.C. § 503(b)(2), (3), (4), and (5) shall be filed with the Clerk, with a copy to the debtor, debtor's attorney, United States Trustee and any trustee appointed under 11 U.S.C. §§ 1104, 1202, or 1302, thirty (30) days prior to the confirmation hearing, or such other time as the Court may order. At any hearing to consider an application for compensation, the Court may also consider any supplement to such application for services rendered after the date of such application.

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#### *Notes of Advisory Committee*

##### *1995 Amendment*

This amendment to Local Rule 3.04 requires that applications of professionals for compensation also be served on the debtor, debtor's attorney, and any trustee appointed under 11 U.S.C. §§ 1104, 1202, or 1302.

These amendments were effective on February 15, 1995.

**Rule 3.04A ELECTION OF TRUSTEE IN A  
CHAPTER 11 REORGANIZATION CASE**

(a) REQUEST FOR AN ELECTION. A request to convene a meeting of creditors for the purpose of electing a trustee in a chapter 11 reorganization case shall be filed and transmitted to the United States trustee in accordance with Bankruptcy Rule 5005 within the time prescribed by § 1104(b) of the Bankruptcy Code. Pending court approval of the person elected, a person appointed under § 1104(d) shall serve as trustee.

(b) MANNER OF ELECTION AND NOTICE. An election of a trustee under § 1104(b) of the Code shall be conducted in the manner provided in Bankruptcy Rules 2003(b)(3) and 2006. Notice of the meeting of creditors convened under § 1104(b) shall be given in the manner and within the time provided for notices under Bankruptcy Rule 2002(a). A proxy for the purpose of voting in the election may be solicited by a committee appointed under § 1102 of the Code and by any other party entitled to solicit a proxy under Bankruptcy Rule 2006.

(c) APPLICATION FOR APPROVAL OF APPOINTMENT AND RESOLUTION OF DISPUTES. If it is not necessary to resolve a dispute regarding the election of the trustee or if all disputes have been resolved by the court, the United States trustee shall promptly appoint the person elected to be trustee and file an application for approval of the appointment of the elected person under Bankruptcy Rule 2007.1(b), except that the application does not have to contain names of parties in interest with whom the United States trustee has consulted. If it is necessary to resolve a dispute regarding the election, the United States trustee shall promptly file a report informing the court of the dispute. If no motion for the resolution of the dispute is filed within 10 days after the date of the creditors' meeting called under § 1104(b), a person appointed by the United States trustee in accordance with § 1104(d) of the Code and approved in accordance with Bankruptcy Rule 2007.1(b) shall serve as trustee.

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*Note*<sup>5</sup>

This rule implements the amendments to § 1104 of the Bankruptcy Code applicable in cases commenced on or after October 22, 1994, regarding the election of a trustee in a chapter 11 case. The requirement that creditors receive at least 20-days' notice of the meeting may be reduced to a shorter period under Bankruptcy Rule 9006(c)(1).

The procedures for reporting disputes to the court and the time limit for filing a motion to resolve any disputes derive from Bankruptcy Rule 2003(d). Because the person elected must be "disinterested," the United States trustee must file an application for court approval of the elected person in accordance with Bankruptcy Rule 2007.1(b).

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<sup>5</sup> This is Suggested Interim Bankruptcy Rule 1 drafted by the Advisory Committee on Bankruptcy Rules of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. The committee has recommended the adoption of this interim rule as a local rule pending revision of the Federal Rules of Bankruptcy Procedure to conform to, and implement, the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394. The Court adopted this rule effective February 15, 1995. The text of the note was drafted by the committee.

**Rule 3.04B SMALL BUSINESS CHAPTER 11  
REORGANIZATION CASES**

(a) ELECTION TO BE CONSIDERED A SMALL BUSINESS IN A CHAPTER 11 REORGANIZATION CASE. In a chapter 11 reorganization case, a debtor that is a small business may elect to be considered a small business by filing a written statement of election no later than 60 days after the date of the order for relief or by a later date as the court, for cause, may fix.

(b) APPROVAL OF DISCLOSURE STATEMENT.

(1) Conditional Approval. If the debtor is a small business and has made a timely election to be considered a small business in a chapter 11 case, the court may, on application of the plan proponent, conditionally approve a disclosure statement filed in accordance with Bankruptcy Rule 3016. On or before conditional approval of the disclosure statement, the court shall

(a) fix a time within which the holders of claims and interests may accept or reject the plan;

(b) fix a time for filing objections to the disclosure statement;

(c) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and

(d) fix a date for the hearing on confirmation.

(2) Application of Bankruptcy Rule 3017. If the disclosure statement is conditionally approved, Bankruptcy Rule 3017(a), (b), (c), and (e) do not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying Bankruptcy Rule 3017(d).

(3) Objections and Hearing on Final Approval. Notice of the time fixed for filing objections and the hearing to consider final approval of the disclosure statement shall be given in accordance with Bankruptcy Rule 2002 and may be combined with notice of the hearing on confirmation of the plan. Objections to the disclosure statement shall be filed, transmitted to the United States trustee, and served on the debtor, the trustee, any committee appointed under the Bankruptcy

Code and any other entity designated by the court at any time before final approval of the disclosure statement or by an earlier date as the court may fix. If a timely objection to the disclosure statement is filed, the court shall hold a hearing to consider final approval before or combined with the hearing on confirmation of the plan.

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*Note*<sup>6</sup>

This rule is designed to implement §§ 1121(e) and 1125(f) that were added to the Code by the Bankruptcy Reform Act of 1994. These amendments are applicable in cases commenced on or after October 22, 1994.

If the debtor is a small business and has elected under § 1121(e) to be considered a small business, § 1125(f) permits the court to conditionally approve a disclosure statement subject to final approval after notice and a hearing. If a disclosure statement is conditionally approved, and no timely objection to the disclosure statement is filed, it is not necessary for the court to hold a hearing on final approval.

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<sup>6</sup> This is Suggested Interim Bankruptcy Rule 2 drafted by the Advisory Committee on Bankruptcy Rules of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States. The committee has recommended the adoption of this interim rule as a local rule pending revision of the Federal Rules of Bankruptcy Procedure to conform to, and implement, the Bankruptcy Reform Act of 1994, Pub. L. No. 103-394. The Court adopted this rule effective February 15, 1995. The text of the note was drafted by the committee.

### **Rule 3.05 HEARING ON CONFIRMATION**

(a) Unless otherwise ordered by the Court, any objections to confirmation shall be filed and served seven (7) days before the date of the hearing. The objection shall be served upon the debtor, debtor's attorney, the trustee or examiner (if any), the proponent of the plan (if not the debtor), counsel for any official committee, and the United States Trustee.

(b) It shall be the responsibility of the attorney for the proponent of the plan to tabulate the acceptance and rejections for the plan. This tabulation shall be filed and served on the United States Trustee and any trustee appointed pursuant to 11 U.S.C. § 1104, not later than ninety-six (96) hours prior to the time set for the hearing on confirmation. The tabulation shall list for each class, the total number of claims voting, the total number of claims accepting, the total dollar amount of claims voting, total dollar amount of claims accepting, percentages of claims voting that accept the plan and percentage of dollar amount of claims voting that accept the plan. It shall be indicated for each class whether they are impaired or unimpaired and whether or not the requisite vote has been attained for each class.

(c) The form of ballot distributed to creditors shall include the address of the Court and shall indicate that ballots should be received and retained by the Clerk no later than the deadline established by order of the Court.

(d) In tabulating the ballots, the following rules shall govern:

(1) Ballots that are not signed or where a company name is not shown on the signature line will not be counted either an acceptance or rejection.

(2) Where the amount shown as owed on the ballot differs from the schedules and a proof of claim has been filed, the amount shown on the proof of claim will be used for the purpose of determining the amount voting. If no proof of claim has been filed the amount shown on the schedules must be used.

(3) Ballots that do not show a choice of either acceptance or rejection will not be counted either as an acceptance or a rejection.

(4) Ballots that are filed after the last date set for filing for ballots will not be counted as either an acceptance or rejection, unless leave of Court is granted.

(5) Where duplicate ballots are filed and one elects acceptance and one elects rejection, neither ballot will be counted unless the later one is designated as amending the prior one.

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*Notes of Advisory Committee*

*1995 Amendment*

Local Rule 3.05(b) has been amended to provide that service of the ballot tabulation shall be on the Office of the United States Trustee and any trustee appointed pursuant to 11 U.S.C. § 1104. The other amendments to Local Rule 3.05(b) are stylistic. No substantive change is intended.

A new provision has been added as Local Rule 3.05(c) requiring that the form of ballot distributed to creditors shall include the address of the Court and shall indicate that ballots should be received and retained by the Clerk no later than the deadline established by order of the Court.

The amendments to Local Rule 3.05(d)(1), (d)(3), and (d)(4) are stylistic. No substantive change is intended.

These amendments were effective on February 15, 1995.

### **Rule 3.06 POST-CONFIRMATION MATTERS**

(a) Unless otherwise ordered by the Court, the debtor shall file any adversary proceedings or contested matters contemplated by the plan of reorganization and file any objections to claims no later than thirty (30) days after the entry of an order of confirmation.

(b) The debtor shall be responsible for preparing the order of confirmation and submitting it to the Court for signature. The order must be submitted to the Court within ten (10) days after the hearing on confirmation. The debtor shall then be responsible for the distribution of the conformed order and copies of the confirmed plan to all creditors, the United States Trustee, those persons on the Local Rule 2.04 Parties in Interest List, and other parties as may be designated by the Court. Such distribution must be accomplished within ten (10) days of receipt of the Court's order.

(c) Unless extended by the Court, within thirty (30) days after the order of confirmation or thirty (30) days after the disposition of all adversary proceedings, contested matters, and objections to claims, whichever is later, the attorney for the debtor shall file a certificate of substantial consummation together with a motion for final decree and proposed final decree.

(d) To the extent conversion is permitted by law, a debtor may convert a Chapter 11 case after confirmation of a plan of reorganization only on order of the Court obtained by motion and hearing with notice to all creditors and parties in interest.

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### ***Notes of Advisory Committee***

#### ***1995 Amendment***

Local Rule 3.06(a) has been amended to include the requirement that the debtor file any adversary proceedings or contested matters contemplated by the plan of reorganization no later than thirty (30) days after the entry of an order of confirmation.

Local Rule 3.06(c) has been amended to include contested matters and adversary proceedings within the matters which must be concluded before entry of a final decree.

Local Rule 3.06(d) has been added to make clear the requirement that a debtor who desires to convert a Chapter 11 case after confirmation of a plan of reorganization may do so only on motion and hearing with notice to all creditors and parties in interest. This is consistent with Bankruptcy Code § 1112(a)(1) which precludes the debtor from converting a case from Chapter 11 to Chapter 7 as a matter of right if the debtor is not a debtor in possession, F.R.B.P. 9013 which requires that a request for an order be made by motion, and F.R.B.P. 2002(a)(5) which requires that parties in interest receive twenty days notice of a hearing on conversion of a case to another chapter. It is not intended that this Local Rule create any substantive rights not otherwise available under existing law.

These amendments were effective on February 15, 1995.

## **IV. APPEALS**

### **Rule 4.01 APPLICABILITY OF PART IV**

Part IV shall apply to all appeals to which Part VIII of the Federal Rules of Bankruptcy Procedure applies.

### **Rule 4.02 APPEALS COVER SHEET**

An appeals cover sheet (available from the Clerk) shall accompany the notice of appeal or motion for leave to appeal as may be filed with the Clerk.

### **Rule 4.03 TRANSCRIPT ORDER FORM**

A transcript order form (available from the Clerk) shall accompany a request for transcript filed pursuant to F.R.B.P. 8007.

#### **Rule 4.04 PREPARATION OF RECORD**

The cost of copying the items to be included in the record on appeal shall be the responsibility of the party designating the item.