



United States Bankruptcy Court
Middle District of Florida
Sam M. Gibbons United States Courthouse
801 North Florida Avenue
Tampa, Florida 33602

MEMORANDUM

From: Hon. Caryl E. Delano *CD*
Judicial Liaison to Local Rules Lawyers' Advisory Committee

To: Interested Parties

Subject: Amendments to Local Rules

Date: May 31, 2019

The Bankruptcy Judges of the Middle District of Florida have approved new and amended Local Rules, effective July 1, 2019. A brief summary of the revisions is set forth below. However, the new and amended Local Rules should be reviewed in their entirety.

The Bankruptcy Judges thank the members of the Local Rules Lawyers' Advisory Committee, Jacob A. Brown, Esq., Lara R. Fernandez, Esq., Andrew V. Layden, Esq., Luis E. Rivera, Esq., and Raymond Waguespack, for their hard work and assistance.

1001-2 Case Management and Electronic Case Filing System—CM/ECF

- Revised to reflect December 1, 2018, revisions to Fed. R. Bankr. P. 5005(a)(2)(C) (“a filing made through a person’s electronic-filing account and authorized by that person, together with that person’s name in a signature block constitutes the person’s signature,” eliminating the “/s/” requirement).
- Revised to require that a paper copy of a proof of service filed by a non-lawyer be retained for two years after the closing of the case.
- Revised to be consistent with Fed. R. Civ. P. 5(d)(1)(B) (also effective December 1, 2018), which provides that a proof of service is not required when a paper is served using the Court’s electronic filing system.

1002-1 Petition—Filing on Debtor’s Behalf by a Court-Appointed Representative, Holder of Power of Attorney, Proposed Next Friend, or Guardian ad Litem

- Revised to provide a single procedure for petitions filed by the holder of a power of attorney or proposed guardian ad litem/next friend. The revised rule more clearly lists

the information to be included in the required supporting declaration and the documents to be filed.

- Revised to provide that letters from the debtor’s physician regarding the debtor’s ability to conduct his or her financial affairs may be filed under seal pursuant to Local Rule 5005-4 without obtaining an order authorizing the filing under seal.
- Revised to provide that in all cases, the Court will schedule a status conference to consider the filing party’s authority to file the case on the debtor’s behalf and the dismissal of the case if the listed requirements are not met.

1007-2 Mailing—List or Matrix

- Revised to clarify that attorneys representing debtors are required to upload the list of creditors via CM/ECF.

1009-1 Amendments to Lists & Schedules

- Revised to reflect the debtor’s obligation to provide a list of creditors (master mailing matrix or CM/ECF upload) if more than ten creditors are added.
- Revised to update the name of the form “Notice of Commencement of Bankruptcy Case, Meeting of Creditors, & Deadlines” to the new name of the form “Notice of Bankruptcy Case” and to require service of a Notice of Bankruptcy Case (displaying the debtor’s full Social Security number) and the Order Confirming Plan (if applicable) to newly added creditors.
- Revised to update the name of the “Statement of Social Security Number” form to the form’s new name “Statement About Your Social Security Numbers.”

1015-1 Joint Administration of Cases

- Section (c)(3) is amended to designate the types of papers that are required to be filed in the designated Lead Case and in in the individual jointly administered cases.

2002-1 Notice to Creditors and Other Interested Parties

- Revised to limit service of amended Chapter 12 and Chapter 13 plans to affected creditors.

2002-4 Negative Notice Procedure

- Revised to conform the language of the Negative Notice Legend to the language of Official Form B 420B “Notice of Objection to Claim.”

2081-1 Chapter 11—General

- Revised to clarify the requirements for cash collateral motions, making a proposed budget the first requirement.
- Revised to state that utilities motions may be considered without a hearing (already on the Accompanying Orders List).

2091-2 Attorneys—Withdrawals and Substitutions

- Revised to permit attorneys to substitute in for an attorney in the same law firm without leave of court if the attorney of record is leaving the firm or will no longer serve as attorney of record.

3002-1 Deadline for Filing Proofs of Claim in Reinstated Cases; Late-Filed Proofs of Claim

- Revised to be consistent with Fed. R. Bankr. P. 3002(c), effective December 1, 2017, which shortened the deadlines for filing proofs of claim from 90 days after the 341 meeting to 70 days after the order for relief. There is no longer a need to differentiate cases dismissed before the 341 meeting from cases dismissed after the 341 meeting.
- Revised to provide that creditors may file a “late-filed” proof of claim (to receive distributions only after timely filed claims are paid in full) without leave of Court.

3007-1 Claims—Objections

- Revised to reflect that service of objections to claims is to be made as set forth in Fed. R. Bankr. P. 3007.

3012-1 Motions to Determine Secured Status—Service

- Revised to (i) specify the content of a motion to determine secured status, (ii) permit the joinder of two or more creditors in a single motion if the motion relates to the same collateral, and (iii) provide for service of motions to determine secured status as required by Fed. R. Bankr. P. 7004.

3022-1 Final Report/Decree (Chapter 11)

- Revised to clarify that no filing fee is required for filing motions to reopen administratively closed cases.
- Revised to require that an individual debtor’s motion to reopen an administratively closed case for the purpose of obtaining a discharge include a verified statement of the total amount of payments made to each creditor under the plan and be served on creditors.

3071-1 Applications for Administrative Expenses

- Current rule only applies to administrative expenses under 11 U.S.C. § 503(b)(1); revised to cover all 11 U.S.C. § 503 administrative claims.

4001-1 Automatic Stay

- Revised to reflect that no filing fee is charged for filing motions to confirm the absence of the automatic stay under 11 U.S.C. § 362(j) or because the debtor’s Chapter 13 plan does not provide for payments to be made through the plan (i.e., surrender/pay direct/no provision for payment).
- Revised to permit a request for relief from the codebtor stay to be combined with a request for relief from stay as to the debtor in a single motion for relief from the automatic stay.

4008-1 Reaffirmation Agreements

- Revised to eliminate language regarding the Court’s possibly vacating a discharge order prior to considering untimely filed reaffirmation agreements. The revision states that the “Court may consider reaffirmation agreements made before the entry of discharge even if the written agreement is filed after entry of the discharge.”

5005-4 Sealed Papers

- Revised to include procedures for unrepresented individuals who are not CM/ECF users to file papers under seal.
- Revised to permit papers relating to an individual's personal health information to be filed under seal without first obtaining an order authorizing the filing under seal.

5077-1 Transcripts of Court Proceedings—NEW RULE

- This new rule incorporates archived Administrative Order FLMB-2009-7 “Amended Order Setting Forth Policy on Electronic Availability of Transcripts of Court Proceedings.”

7001-1 Adversary Proceedings—Procedures

- The amendment to section (k)(4) specifies the types of motions that are required to be filed using the Court's negative notice procedures.
- Amended section (m)(3) provides that written objection to the admission of an exhibit into evidence on the grounds that the exhibit (a) lacks authentication or (b) does not qualify as an exception to the hearsay rule as a record of a regularly conducted activity under Federal Rule of Evidence 803(6) must be filed before the close of business on the second day before trial or the objection will be deemed waived.

7026-2 E-Discovery—NEW RULE

- New rule incorporates provisions of *Middle District Discovery: A Handbook on Civil Discovery Practice in the United States District Court for the Middle District of Florida*.

9004-1 Papers—Caption, Demand for Jury Trial, Injunctive Relief

- Revised to migrate the sections on Motions and Emergency Hearings to new Local Rule 9013-1.

9013-1 Motion Practice; Request for Emergency Hearing; Request for Injunctive Relief—NEW RULE

- This rule replaces former Local Rule 9013-1 Proof of Service, which has been renumbered as Local Rule 9013-3.
- Section (b) refers parties to the Negative Notice List and the Accompanying Orders List which specify the types of matters that may be considered by the Court without a hearing.
- Sections (a) and (d) were previously included in Local Rule 9004-1.
- Section (c)(2) provides deadlines for filing written opposition to motions.

9013-3 Proof of Service in Bankruptcy Cases, Adversary Proceedings, and Contested Matters

- Renumbered from 9013-1.
- Section (g) requires proof of service to be filed with the paper served or promptly upon service.

9070-1 Exhibits

- Amended section (a) clarifies the procedures for submission of exhibits by attorneys and parties not represented by counsel.
- Amended section (d) clarifies the types of objections to the admission of exhibits into evidence that are required to be filed before the close of business on the second day before trial. Section (d) is consistent with the revision to Local Rule 7001-1(m)(3).

9072-1 Orders—Proposed

- Revised to incorporate the “competing orders” procedure in CM/ECF.
- Revised to require agreed orders that relate to a scheduled hearing to state that the hearing is cancelled.
- Revised to update instructions regarding the service of orders.

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