

Court Connection
Volume No. 6 – Issue No. 2
April 2017

PROPOSED AMENDMENTS TO LOCAL RULES

COMMENT PERIOD APRIL 3-MAY 18

The judges of the United States Bankruptcy Court for the Middle District of Florida are considering proposed amendments to the Local Rules. The proposals were posted on the Court's website for public comment beginning on April 3, 2017. The public comment period ends on May 18, 2017. When promulgated by the judges, the amended and new Local Rules will become effective on July 1, 2017.

Below is a summary of the proposed changes. Click [here](#) to review the proposed new and amended rules and provide comments.

Rule 1001-3 Privacy Policy Regarding Public Access to Electronic Case Files

Revised to provide that parties wishing to file papers containing personal data identifiers may file a motion for leave to file under seal.

Rule 1002-1 Petition Filing on Debtor's Behalf by a Representative, Holder of Power of Attorney, Guardian ad Litem, or Next Friend

This proposed rule establishes procedures for the filing of voluntary petitions by court-appointed representatives, holders of powers of attorney, guardians ad litem, and next friends. If a petition is filed by the holder of a power of attorney, the Court will enter an order to show cause why the case should not be dismissed; if the petition is filed by a "next friend" or person seeking to be appointed as "guardian ad litem," then the petition shall be accompanied by a motion. If no motion is filed, the Court will enter an order to show cause. The rule specifies the information and documents that must be filed in support of a motion or in response to an order to show cause. This rule is based upon Local Rules 1002.1 Petition -- General and 1004.1 Petition-Infant or Incompetent Person, United States Bankruptcy Court, District of Oregon.

Rule 2004-1 Examination of Debtor and Others

The rule is revised to require that the parties meet and confer prior to any scheduled hearing on a motion for protective order relating to an examination under Fed. R. Bankr. P. 2004.

Rule 4001-1 Automatic Stay

In addition to formatting changes, the rule is revised to include Middle District judges' policy of waiving the 14-day stay under Fed. R. Bankr. P. 4001(a)(c) for real estate, but not for automobiles, "absent compelling circumstances."

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Rule 5005-4 Sealed Papers

The rule is revised to clarify that it does not apply to documents being inspected by the Court in camera (which are not filed on the docket) and to specify the types of papers that may be filed under seal without prior court approval: motions for writ of garnishment, attachment, or execution; adversary complaints seeking injunctive relief; motions for TRO's that are requested to be granted without notice. The revisions are consistent with current clerk's office procedures.

Rule 7001-1 Adversary Proceedings – Procedures

In addition to formatting changes, the rule is revised to require pleadings that request injunctive relief to so state in the title of the pleading and to state, as per Fed. R. Civ. P. 5, that discovery papers must not be filed with the Court. Section (k)(5) is revised to more clearly explain when a proceeding or issue is not subject to the entry of final orders or judgments because it is either non-core or statutorily core but involves state law claims.

Rule 7026-1 Discovery – General

The rule is revised to state that, as with Fed. R. Civ. P. 5, discovery papers must not be filed with the Court. The revised Rule also requires that motions to compel and motions for protective order include a certification that counsel has met and conferred.

Rule 9004-1 Papers, Caption, Motions, Demands for Jury Trial, Injunctive Relief, Emergency Hearings

The title of the rule (renumbered from 9004-2) is revised to better reflect the contents of the rule.

Rule 9070-1 Exhibits

The rule is revised to replace Administrative Order FLMB-2015-06, which governs the use of electronically stored exhibits. A redlined and a clean copy are attached. The administrative order incorporated the provisions of current Local Rule 9070-1; the redlined copy reflects the revisions to the administrative order. The substantive revisions include a provision for exhibits with personal data identifiers (referring to Local Rules 1001-2 and 5005-4), and to clarify that the exhibits used for each witness shall be placed in a separate binder or folder. However, the failure to include an exhibit in a witness's binder is not ground for excluding the exhibit from being admitted into evidence.