



**UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA**

**LOCAL RULES**

**EFFECTIVE: APRIL 1, 2005**

**TABLE OF CONTENTS**

**I. RULES**

1001-1	Introduction & General Statement of Adoption and Application of Local Rules .....	4
1005-1	Petition - Caption .....	4
1007-1	Lists, Schedules, & Statements .....	5
1007-2	Mailing List or Matrix .....	6
1009-1	Amendments to Lists and Amended Schedules.....	6
1015-1	Joint Administration .....	6
1017-2	Dismissal - Case or Proceedings .....	7
1019-1	Conversion .....	7
1020-1	Chapter 11 Small Business Cases - General .....	7
1070-1	Jurisdiction .....	8
2002-1	Notice to Creditors and Other Interested Parties .....	8
2003-1	Meeting of Creditors and Equity Security Holders .....	8
2015-2	Debtor in Possession Duties .....	8
2016-1	Compensation of Professionals .....	9
2071-1	Committees .....	11
2081-1	Chapter 11 - General .....	11
2082-1	Chapter 12 - General .....	13
2083-1	Chapter 13 - General .....	14
2090-1	Attorneys - Admission to Practice .....	14
3001-1	Claims & Equity Security Interest - General .....	16
3007-1	Claims Objections .....	17
3012-1	Valuation of Collateral .....	18
3017-1	Disclosure Statement - Approval .....	19
3017-2	Disclosure Statement - Small Business Cases .....	20
3020-1	Chapter 11 - Confirmation .....	21
4001-1	Automatic Stay - Relief From .....	22
4003-2	Lien Avoidance .....	24
5005-1	Electronic Filing .....	24
5011-1	Withdrawal of Reference .....	24
5011-2	Abstention .....	26
5081-1	Fees - Form of Payment .....	27
6004-1	Sale of Estate Property .....	27
6007-1	Abandonment .....	28

*Bankruptcy Rules*

7001-1	Adversary Proceedings .....	29
7004-1	Service of Process .....	29
7007-1	Motion Practice - Adversary Proceedings .....	29
7008-1	Core - Non-Core Proceedings .....	30
7016-1	Pre-Trial Procedures .....	30
7026-1	Discovery – General .....	30
7041-1	Dismissal - Failure to Prosecute .....	31
7054-1	Cost - Taxation/Payment .....	31
7055-1	Default .....	31
7067-1	Registry Fund .....	32
9004-2	Caption - Papers, General .....	32
9006-1	Time Periods .....	33
9013-2	Briefs and Memoranda of Law .....	33
9014-1	Witnesses and Evidentiary Hearings .....	34
9015-1	Jury Trial .....	34
9070-1	Exhibits .....	34
9071-1	Stipulations .....	35
9072-1	Orders – Proposed .....	36
9073-1	Hearings .....	36
<b>II.</b>	<b>ADDENDUMS</b>	
	Addendum A – Courtroom Conduct and Decorum .....	38
	Addendum B – Mediation .....	40
<b>III.</b>	<b>INDEX</b> .....	42

UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA

IN RE: RULES OF THE UNITED STATES  
BANKRUPTCY COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA

ORDER AMENDING LOCAL BANKRUPTCY  
RULES OF PRACTICE AND PROCEDURE

UPON CONSIDERATION of the undersigned in accordance with Bankruptcy Rule 9029, the Amended Local Rules of Practice and Procedure appended hereto are hereby adopted and become effective 12:01 a.m. April 1, 2005, and shall govern all practice and procedure in the Bankruptcy Courts in the Northern District of Florida after the effective date.

DONE and ORDERED by the Court on this 7th day of January of 2005.

  
ROBERT L. HINKLE  
Chief U.S. District Judge

  
LEWIS M. KILLIAN, JR.  
U. S. Bankruptcy Judge

## **RULE 1001-1**

### **INTRODUCTION AND GENERAL STATEMENT OF ADOPTION AND APPLICATION OF LOCAL RULES**

A. The title of these rules is "Local Rules, United States Bankruptcy Court, Northern District of Florida." They may be cited as "N.D. Fla. LBR\_\_\_\_."

B. These rules shall take effect on April 1, 2005, and shall apply in said United States Bankruptcy Court to all cases, and to all matters and proceedings arising in or related to cases under Title 11, United States Code (the Bankruptcy Code) then pending and thereafter filed, except to the extent that in the opinion of the Court their application in a pending case, matter or proceeding would not be feasible or would work an injustice.

C. For cause, on motion of a party in interest or sua sponte, the Court may direct that one or more provisions of these rules not apply in a case, matter, or proceeding.

D. The Local Rules of the United States District Court, Northern District of Florida shall apply in all bankruptcy cases, including contested matters and adversary proceedings, to the extent applicable and to the extent not inconsistent with the bankruptcy rules and the local bankruptcy rules for the Northern District of Florida.

E. Definitions: The terms "Court", "Clerk", and "Judge", when those appear in applicable District Court Local Rules, shall mean the Bankruptcy Court, Bankruptcy Clerk, and Bankruptcy Judge, respectively, unless inconsistent with the language or meaning of the particular District Court Local Rule.

## **RULE 1005-1**

### **PETITION - CAPTION**

A petition filed on behalf of an individual or an individual and such individual's spouse shall not include the name of any corporation, partnership, limited partnership, or joint venture.

**RULE 1007-1**

**LISTS, SCHEDULES, & STATEMENTS**

A. The following shall accompany and be filed with the petition:

(1) CHAPTER 7, 12, or 13:

(a) LIST OF CREDITORS (Names and Addresses) unless the petition is accompanied by a schedule of liabilities or a Chapter 13 statement.

(b) MASTER MAILING MATRIX. (see Local Rule 1007-2)

(c) FILING FEE.

(2) CHAPTER 9 or 11:

(a) LIST OF CREDITORS (Names and Addresses) unless the petition is accompanied by a schedule of liabilities.

(b) EXHIBIT "A" TO OFFICIAL FORM NO. 1, IF DEBTOR IS A CORPORATION.

(c) LIST OF TWENTY LARGEST UNSECURED CREDITORS EXCLUDING INSIDERS.

(d) MASTER MAILING MATRIX (see Local Rule 1007-2)

(e) FILING FEE.

B. Chapter 13 Statement and Plan:

The original of the Chapter 13 Statement must be filed within the time limits specified in Bankruptcy Rule 1007(c). Schedule B-4 must accompany the Statement.

## **RULE 1007-2**

### **MAILING LIST OR MATRIX**

The debtor shall file with the petition a list containing the name and address of each creditor which shall serve as a mailing matrix. The mailing matrix shall be submitted in the format specified by the Clerk's Office (see "INSTRUCTIONS FOR CREDITOR MATRIX DISKETTE" on local forms page on court Internet site).

## **RULE 1009-1**

### **AMENDMENTS TO LISTS AND AMENDED SCHEDULES**

A. Amendments to Voluntary Petitions, Lists, Schedules and Statements of Affairs may be made by filing the original with the Clerk. Amendments must contain a caption which includes the case number, case name and the title of the document. The amendment must be executed and acknowledged by the debtor and attorney of record in the same manner that the item being amended was originally executed. Amended schedules should be filed in their entirety for clarity and to simplify the record. Any changes, additions or deletions must be clearly indicated.

B. The debtor shall notice the amendment to any entity affected thereby, the trustee, and to the U.S. Trustee's office. A certificate of service shall be filed with the Clerk.

C. Amendments adding additional creditors to the schedules require the appropriate filing fee and shall be accompanied by an additional mailing matrix which contains the names and addresses of only the creditors being added.

## **RULE 1015-1**

### **JOINT ADMINISTRATION**

A. Time for Filing Objection to Joint Administration. All joint cases by husband and wife will be jointly administered in accordance with Bankruptcy Rule 1015. However a creditor or party in interest may file an objection to joint administration no later than 30 days after the first date set for the meeting of creditors under §341(a).

B. Extension of Time. On motion of any party in interest, after hearing on notice, the court may for cause extend the time to file an objection to joint administration. The motion shall be filed before the time has expired.

#### **RULE 1017-2**

### **DISMISSAL - CASE OR PROCEEDINGS**

Failure to comply with these Rules may be grounds for dismissal of a case or conversion to a case under Chapter 7 of Title 11.

#### **RULE 1019-1**

### **CONVERSION**

In cases converted to Chapter 7, the debtor-in-possession or the trustee shall file an original of all lists, schedules, and statements required by Bankruptcy Rule 1007, on the official forms with the debtor's signatures, which accurately reflects the condition of the debtor's estate at the time of conversion. The lists, schedules, and statements shall be filed within the time provided in Bankruptcy Rule 1007 and 1019(1)(A). The final report and schedule of post-petition debts shall be filed within the time provided in Bankruptcy Rule 1019(1)(A). In lieu of filing new schedules and statements, if the debtor has acquired no debt or property since the filing of the case and prior to conversion, the Debtor shall obviate the need for filing amended schedules by filing a statement that he or she has acquired no debts or property since the case was filed. The debtor shall comply with all other requirements of Bankruptcy Rule 1019.

#### **RULE 1020-1**

### **CHAPTER 11 SMALL BUSINESS CASES - GENERAL**

**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 pleading and appropriate certificate of service so indicating the election no later than sixty (60) days after the date of the order for relief or by a later date as the Court, for cause, may fix.

**RULE 1070-1**

**JURISDICTION**

Motions other than those filed in adversary proceedings shall be deemed to be core proceedings unless a response asserting that the matter should be treated as a non-core proceeding is filed within the time provided in Local Rule 9013-2.

**RULE 2002-1**

**NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES**

A party in interest who desires to receive copies of pleadings and notices to which it is entitled under Bankruptcy Rule 2002 shall:

- A. File a request with the Clerk;
- B. Serve a copy of the request on the debtor, debtor's attorney, the attorney for the debtor- in- possession, the trustee, the attorney for the trustee and the U.S. Trustee; and
- C. Attach to the request filed with the Clerk a certificate of service which states to whom a copy of the request has been given.

**RULE 2003-1**

**MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS**

Section 341 Meetings will not be continued except for good cause shown. All requests for continuances must be made through the U.S. Trustee's Office in Chapter 11 cases and through the trustee in Chapter 7, 12, or 13 cases.

**RULE 2015-2**

**DEBTOR IN POSSESSION DUTIES**

A. A debtor-in-possession or a trustee who operates a business shall file signed monthly financial reports in the form and containing the information as set forth by the Office of the U.S. Trustee (see local forms page on court Internet site).



B. A debtor-in-possession in a Chapter 11 case who is an individual not engaged in business shall file signed monthly financial reports in the form and containing the information as set forth by the Office of the U.S. Trustee (see local forms page on court Internet site).

C. The monthly reports shall be filed no later than the 20th day of each month commencing with the month following the filing of the petition and shall reflect all transactions during the immediately preceding month.

D. The attorney for the debtor-in-possession shall not be required to sign the monthly financial reports or file any notice of their filing.

E. The debtor-in-possession or trustee in a Chapter 11 case shall file the original monthly financial report with the Clerk and serve a copy of the reports and financial statements upon the U.S. Trustee, the members of the creditors' committee, if one has been appointed, the attorney for the creditors' committee, if one has been employed, and such other person or persons as the Court may from time to time direct. The debtor-in-possession in Chapter 12 and Chapter 13 business cases shall serve a copy of the reports and financial statements upon the trustee, the U.S. Trustee and upon such other person or persons as the Court may from time to time direct.

F. In Chapter 12 cases the debtor shall file signed Monthly Cash Receipts and Disbursements Statements as set forth by the Office of the U.S. Trustee (see local forms page on court Internet site). The debtor shall file the original with the Clerk and provide a copy to the Chapter 12 Trustee and the U.S. Trustee beginning with the filing of the bankruptcy petition and ending when the payments under the Plan are complete. The reports shall be filed by the debtor no later than the 15th day following the end of the month and shall include all of the debtor's receipts or income, in cash or by check, received during the month. The receipts should be itemized by kind, quantity, and dollar amount. All expenses paid in cash or by check should be itemized.

G. Failure to comply with this rule may be grounds for conversion to Chapter 7, if permitted by law, or for dismissal of the case.

## **RULE 2016-1**

### **COMPENSATION OF PROFESSIONALS**

A. Applications for Compensation in Chapter 7 Cases:

(1) (a) Final applications for fees, and expenses of all professionals incurred during the administration of the Chapter 7 cases and allowable under 11 U.S.C. § 503(b)(2), (3), (4), and (5) must be filed not later than fifteen (15) days after service of notification by the trustee that the case is ready to close.

(b) In cases that have been converted to Chapter 7, all final applications of professionals for fees, cost, and expenses incurred in the superseded case must be filed within ninety (90) days after the date of the order converting the case.

(2) All applications for fees and expenses, whether interim or final, shall contain the amounts requested and a detailed itemization of the work performed including: a) the name of the individual performing the work; b) the amount of time expended for each item of work; c) the hourly rate requested; and d) a discussion of the criterion that are relevant in determining the compensation to be awarded.

(3) Applications for fees and expenses totaling \$1,000 or less will be determined after notice and an opportunity for a hearing. Notice shall go to all creditors, the U.S. Trustee, and all other parties in interest. A hearing will not be held unless a timely objection is filed with the Court.

**B. Applications for Compensation in Chapter 11 Cases:**

(1) Applications of attorneys, accountants, auctioneers, appraisers, and other professionals for compensation from the estate of the debtor allowable under 11 U.S.C. § 503(b)(2), (3), (4) and (5), should be filed no later than fifteen (15) days after the entry of an order scheduling the confirmation hearing, except for applications for fees and expenses totaling \$1,000 or less, which may be heard and determined pursuant to Local Rule 2016-1. A copy of the application shall be served upon the trustee, the attorney for the trustee, the debtor-in-possession, the attorney for the creditors' committee, and the U.S. Trustee. Nothing herein shall preclude an application not filed pursuant to this rule; provided, however, that debtor shall not be required to pay for such services at the time of confirmation.

(2) All applications for compensation of professionals, including interim applications, shall contain a detailed itemization of the work performed. Applications by attorneys and accountants shall include the individual performing the item of work, a description of the work performed

for each item, the amount of time expended for each item, the hourly rate requested, and a discussion of the criteria that are relevant in determining the compensation to be awarded.

(3) All disclosures required to be transmitted to the United States Trustee under Bankruptcy Rule 1026(b) shall be served on the case trustee within the time required for service on the United States Trustee.

#### **RULE 2071-1**

#### **COMMITTEES**

A. Upon appointment of a committee of creditors pursuant to 11 U.S.C. § 1102, those creditors willing to serve shall have an organizational meeting and elect a chairman who shall preside at meetings of the creditors' committee.

B. The meetings of the creditors' committee may be held by telephone.

C. The U.S. Trustee shall notice the Clerk of the Bankruptcy Court of the names, addresses, and telephone numbers of the members of the committee. If no committee is appointed, the U.S. Trustee's office shall notice the Clerk of the Bankruptcy Court that no committee has been appointed. A copy of the appropriate notice shall be served upon the attorney for the debtor and the members of the committee.

#### **RULE 2081-1**

#### **CHAPTER 11 – GENERAL**

A. Authority to Operate Business:

The operation of a business by a debtor-in-possession in cases filed under Chapter 11 shall be subject to the terms and conditions of an order continuing the debtor-in-possession to be entered upon the entry of the Order for Relief. The debtor-in-possession shall also deposit taxes and file tax returns in compliance with the terms of the Order to File Federal and State Employment Tax Returns and To Deposit State and Federal Taxes. (see local forms page on court Internet site).

B. Post-Confirmation Matters:

(1) Within twenty (20) days after the confirmation hearing confirming the plan, the attorney for the proponent of the plan shall prepare the Order of Confirmation and submit it to the Court. Copies of the proposed order shall be served upon the U.S. Trustee, any party in interest who filed an objection to the confirmation and to any other person designated by the Court. The proponent of the plan shall then be responsible for the distribution of the Order of Confirmation and copies of the confirmed plan to all creditors, the U.S. Trustee, and other parties as may be designated by the Court.

(2) (a) In addition to the report required by Bankruptcy Rule 2015(a) and (b), in those instances where the plan requires longer than one hundred twenty (120) days for consummation, the plan proponent shall file a Confirmed Plan Status Report beginning the third month after the effective date of the plan and every 3 months thereafter. This report shall disclose any distributions made, including the amount of each distribution to creditors as identified in the plan, as well as a description of all other matters which must be consummated in order to close the estate.

(b) If the plan provides for payments to any class of creditors over a period of time which is longer than one hundred eighty (180) days from the date of confirmation, the plan proponent shall execute an instrument evidencing the indebtedness and deliver such instrument to each creditor or other party interest. Such instrument shall provide for payment of the amount due under the plan upon the terms set forth in the plan. Delivery of instruments shall be deemed commencement of distribution under the plan for purposes of closing the estate pursuant to 11 U.S.C. § 1101(c). Such instruments shall be delivered to creditors in each class within thirty (30) days after all objections to claims in that class have been resolved or, if there are no objections to claims in any class, then within sixty (60) days after the entry of an Order of Confirmation.

(c) Upon substantial consummation of the Plan, the plan proponent shall file its application for final decree which shall certify compliance with 11 U.S.C. § 1101.

**RULE 2082-1**

**CHAPTER 12 - GENERAL**

**A. Duties of the Chapter 12 Debtor**

(1) At least five (5) days before the first meeting of creditors, the debtor must file and provide the Chapter 12 trustee with the Summary of Operations for Chapter 12 Case (see local forms page on court Internet site) and the Income Tax Returns for the two (2) years immediately preceding the filing of the bankruptcy petition.

(2) At least five (5) days before the confirmation hearing, the debtor must file and provide a copy to the Chapter 12 Trustee of the Farm Plan for a three (3) year period indicating projected disposable income, and a liquidation analysis reflecting the distributions to unsecured creditors if the case proceeds as a Chapter 7.

(3) The debtor shall file and provide a copy to the Chapter 12 Trustee the Monthly Cash Receipts and Disbursements Statement (see local forms page on court Internet site) beginning with the filing of the bankruptcy petition and ending when the payments under the Plan are complete. The Statements shall be filed by the debtor no later than the fifteenth (15th) day following the end of the month and shall include all of the debtor's receipts and/or income, in cash or by check, received during the month. The receipts should be itemized by kind, quantity, and dollar amount. All expenses paid in cash or by check should be itemized.

(4) Within sixty (60) days after the end of a calendar year (or fiscal year), the debtor must complete and file with the Clerk and the Chapter 12 Trustee, Internal Revenue Service Form Schedule 1040 F together with all supporting schedules of Schedule F, and Form 4835, for any part of the calendar or taxable period ending after the date on which the Chapter 12 petition was filed. The Schedule F and Form 4835 must report all income and all expenses to the end of the calendar (or fiscal) year.

**B. Pre-Confirmation Matters in Chapter 12**

(1) In all cases filed under Chapter 12, the debtor shall file a statement which contains "adequate information" about: (a) the debtor's ability to make all of the payments under the plan and to comply with the

plan, (b) the financial condition of the debtor, including assets and liabilities of the debtor as well as the income and expenses of the debtor for the preceding calendar year, (c) the value of any property of the estate, whether being retained by the debtor or surrendered, which is subject to a lien or security interest as well as a description of the basis for such value, (d) an analysis of the amount which would be received by unsecured creditors if the estate of the debtor were to be liquidated under Chapter 7 of Title 11, and (e) a projection of the net disposable income of the debtor for the term of the plan.

(2) For purposes of this section, "adequate information" shall mean information of a kind, and in sufficient detail, as far as reasonably practicable in light of the nature and history of the debtor and the condition of the debtor's books and records, that will enable creditors and the trustee to make an informed judgment about confirmation of the plan.

(3) In a Chapter 12 case, the pre-confirmation statement shall be filed upon the filing of a plan. In business Chapter 13 cases, the pre-confirmation statement shall be filed fifteen (15) days prior to the confirmation hearing. Copies of the pre-confirmation statement shall be served upon all creditors, the trustee, the U.S. Trustee, and other persons who have requested notice pursuant to Bankruptcy Rule 2002.

**C. Local Rule 2081-1(B) shall apply in Chapter 12 cases.**

#### **RULE 2083-1**

### **CHAPTER 13 - GENERAL**

Local Rule 2082-1(B) shall apply in all business Chapter 13 cases.

#### **RULE 2090-1**

### **ATTORNEYS - ADMISSION TO PRACTICE**

A. General Admission:

Except as provided herein, Local Rule 11.1 of the United States District Court for the Northern District of Florida governs the admission and appearance of attorneys before the Bankruptcy Court. All attorneys admitted to practice in the United States District Court for the Northern District of Florida are by virtue thereof admitted to practice in the Bankruptcy Court.

B. Admission Not Required:

(1) An attorney representing the United States, or any agency thereof, having the authority of the Government to appear as its counsel, may appear and be heard in any case or proceeding in which the Government or such agency thereof is a party-in-interest.

(2) An attorney who is not admitted to the United States District Court, Northern District of Florida, but is an active member in good standing of the bar of a Court of general jurisdiction in any state or territory of the United States, may appear on behalf of a creditor in the following instances:

(a) Preparation and filing of a notice of appearance and request for service of notices pursuant to Bankruptcy Rule 2002; and

(b) The preparation and filing of a proof of claim.

C. Conduct:

All attorneys appearing in the Bankruptcy Court and all persons at counsel table are expected to observe the same customary and traditional Rules of Conduct and Decorum applicable in the United States District Court, as set forth in Addendum A for convenient reference.

D. Attorneys - Appearance and Withdrawal; Representation by an Attorney - When Required:

(1) 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 leave of Court obtained after giving ten (10) days notice to the party or client affected thereby and to opposing counsel.

(2) (a) The disclosure statement required by Bankruptcy Rule 2016(b) shall include a statement as to whether the attorney has been retained to represent the debtor in discharge and dischargeability proceedings.

(b) If the disclosure statement recites that the attorney has not been retained to represent the debtor in discharge and dischargeability proceedings, the attorney shall not be required to represent the debtor in such proceedings.

(c) If the disclosure statement fails to recite whether the attorney has been retained to represent the debtor in discharge and dischargeability proceedings, the attorney shall be deemed to represent the debtor in such proceedings and shall not be allowed to withdraw from such proceedings except as provided in paragraph (1).

(3) Unless allowed to withdraw from a case, matter, or proceeding by order of the Court, counsel filing a petition on behalf of a debtor shall attend all hearings and meetings scheduled in the case or proceeding at which the debtor is required to attend under any provision of the Bankruptcy Code, the Bankruptcy 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.

(4) 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 natural person, 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.

(5) An entity other than a natural person may not file any petition or pleading, except a proof of claim or a ballot, or otherwise appear except through an attorney; provided, however, that any creditor or party in interest may participate in a Section 341 Meeting of Creditors without an attorney.

## **RULE 3001-1**

### **CLAIMS & EQUITY SECURITY INTEREST - GENERAL**

The debtor or trustee filing a proof of claim in the name of a creditor pursuant to Bankruptcy Rule 3004 shall have the responsibility of noticing the filing to the affected creditor, and as appropriate, the debtor or trustee.



## RULE 3007-1

### CLAIMS OBJECTIONS

A. Objections to timely-filed claims shall be subject to Bankruptcy Rule 9014 and Local Rule 9013-2, except that the initial pleading need not contain or be accompanied by citations of authority.

B. Objections to claims shall be filed individually for each claim objected to and may name only one creditor.

**Note:** *Objections which include multiple claims, except with respect to duplicate claims, cannot be accurately processed and tracked in the Court's electronic filing system.*

C. All responsive pleadings to an objection to claim shall contain or be accompanied by citations of authority.

D. If no response to an objection to a claim is filed pursuant to Local Rule 9013-2, the Court may grant relief to the objecting party without the necessity of an evidentiary hearing if relief is otherwise proper.

E. All proposed orders on objections to claims shall recite in the ordering paragraph that the objection is either sustained or denied, that the claim is either allowed or disallowed, and if allowed, the amount and class of each such allowed claim.

F. In all cases filed under Chapter 13, unless extended by the Court, objections to timely-filed claims shall be filed no later than the hearing on Confirmation of the Plan.

G. In all cases filed under Chapter 11, unless extended by the Court, objections to claims shall be filed not less than forty-five (45) days prior to the entry of an Order of Confirmation.

**Note:** *As guidance to practitioners utilizing this Local Rule, this procedure should be used only for routine objections to claims and in no instance shall this rule be used in filing objections to claims of federal governmental units.*

## **RULE 3012-1**

### **VALUATION OF COLLATERAL**

A. (1) In cases filed under Chapter 11, all secured creditors shall be served a copy of any plan and disclosure statement or any amendment thereto filed in the case. The value of property set forth in the disclosure statement filed pursuant to 11 U.S.C. § 1125 shall be deemed at confirmation to be the value of the property for purposes of the plan and confirmation of the plan, including the treatment of creditors under the plan, unless five (5) days prior to the hearing on confirmation a party in interest has filed a motion pursuant to Bankruptcy Rule 3012, in which event such values shall be as determined by the Court.

(2) The disclosure statement shall include the plan proponent's basis or justification for all values shown.

B. In cases filed under Chapter 12 or 13: Upon the filing of the plan or within five (5) days thereafter, the debtor shall file a notice to secured creditors whose claims are being impaired under the Plan of the value, and the debtor's basis or justification for the values shown, of the collateral which secures their claim as set forth in the schedules. The attorney for the debtor shall file a certificate of service to evidence service of the notice pursuant to this rule. The value of property subject to liens or security interests as noticed shall be deemed to be the value of the property for purposes of confirmation and treatment of such creditor pursuant to a plan unless no later than twenty (20) days after such notice any party in interest files a motion to value collateral pursuant to Bankruptcy Rule 3012. The notice sent to a secured creditor pursuant to this rule shall notify such creditor that failure to file a timely motion to value collateral will result in such collateral being valued at the amount listed for purposes of confirmation of the plan and treatment of such creditor's claim pursuant to the plan.

C. A motion to value property of the estate shall state the value of the property as alleged by the moving party and all facts or circumstances supporting such value and shall be accompanied by an appraisal or other evidence of value. A Motion to Value shall include a certification as required by Local Rule 7007-1. The appraisal or other evidence shall be filed and a copy served upon all adverse parties who are required to be served with a copy of the motion. Any adverse party who contests the motion and desires to appear and be heard on the issue of value shall file a response to such motion within twenty (20) days prior to the hearing on the motion and shall file and serve not

later than five (5) days prior to the hearing an appraisal or other evidence of value.

D. In any proceeding in which the value of real property is an issue and where a party intends to present appraisal testimony, the appraisal report and a statement of the qualifications of the appraisal witness shall be filed with the Court and served on all opposing parties as soon as the report first becomes available but in no case less than five (5) days before the trial or hearing wherein the testimony is to be presented.

E. All objections to the admissibility of the appraisal report or the qualifications of the appraiser as an expert shall be filed and served upon the appraisal's proponent no less than two (2) days prior to the trial or hearing wherein the testimony is to be presented. Absent any objections, the report shall be admitted into evidence without further testimony.

F. Admission into evidence of an appraisal report shall constitute the complete direct examination of an appraiser witness. Cross examination of the witness will begin immediately upon admission of the report followed by redirect and re-cross.

#### **RULE 3017-1**

#### **DISCLOSURE STATEMENT - APPROVAL**

A. Upon the filing of the disclosure statement in cases under Chapter 11, the proponent of the Plan shall serve copies of the disclosure statement and plan upon the debtor (if not the proponent), the debtor's attorney (if the debtor is not the proponent), the trustee (if any), the attorney for the creditors committee (if any), each member of the creditors committee, the Internal Revenue, Special Procedures Staff, the Securities and Exchange Commission, Chapter 11 Bankruptcy Filings, Washington, D.C. 20549, the U.S. Trustee, all parties required under Local Rule 3012-1A.(1) and all parties in interest who have filed with the Clerk a request that notice be sent to them pursuant to Bankruptcy Rule 2002. A certificate of such service shall be filed with the Clerk.

B. The attorney for the debtor shall send copies of the disclosure statement and plan to any other party in interest who requests a copy and may charge such party in interest a reasonable charge for copying and mailing not to exceed the amount charged by the Clerk's office.

C. Objections to the proposed disclosure statement shall be filed and served on the debtor, the debtor's attorney, the attorney for the proponent of the plan (if other than the debtor), the U.S. Trustee, and all parties entitled to be served copies of the disclosure statement and plan as listed above at least five (5) days prior to the hearing on the disclosure statement. Any objections not timely filed shall be deemed waived.

## **RULE 3017-2**

### **DISCLOSURE STATEMENT - SMALL BUSINESS CASES**

A. 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

- (1) fix a time within which the holders of claims and interests may accept or reject the plan;
- (2) fix a time for filing objections to the disclosure statement;
- (3) fix a date for the hearing on final approval of the disclosure statement to be held if a timely objection is filed; and
- (4) fix a date for the hearing on confirmation.

B. 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).

C. 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 U.S. 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.

[NOTE: 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.]

## **RULE 3020-1**

### **CHAPTER 11 - CONFIRMATION**

A. Objections to confirmation shall be governed by Bankruptcy Rule 9014 and shall be filed and served not less than seven (7) days before the hearing on confirmation or within such time as may otherwise be ordered by the Court. A copy of any objection shall be served upon each of the persons set forth in Bankruptcy Rule 3020(b), the U.S. Trustee, and the proponent of the plan (if other than the debtor).

B. All acceptances and rejections shall be sent to the proponent of the plan at least seven (7) days prior to the confirmation hearing, and, if the plan proponent is not the debtor, a copy of all ballots shall be served upon the debtor. Prior to the hearing on confirmation in Chapter 11 cases, the attorney for the plan proponent shall tabulate the acceptances and rejections of the plan on a Chapter 11 Ballot Tabulation form (see local forms page on court Internet site). The ballot tabulation and the original ballots shall then be filed with the Court prior to or at the confirmation hearing. The attorney for the plan proponent shall certify that the tabulation is accurate and that all ballots received have been accounted for and filed.

C. In tabulating the acceptances and rejections, the following rules shall govern:

(1) Ballots which are not signed or which do not identify the creditor will not count as either an acceptance or rejection;

(2) Ballots which do not show a choice of either acceptance or rejection will not be counted either as an acceptance or a rejection;

(3) Ballots which are filed after the last date set for filing of ballots will not be counted as either an acceptance or rejection except upon leave of the Court; and

(4) Where duplicate ballots are filed and one elects acceptance and one elects rejection, then, absent leave of the Court, neither ballot will be counted unless the latter one is designated as amending the prior one.

D. A summary of the tabulations shall be filed with the Court which shall list for each class: the total number of claims voting, total dollar amount of claims accepting, percentages of claims voting which accept the Plan, and percentage of dollar amount of claims voting which accept the Plan. Such summary shall also indicate for each class whether they are impaired or unimpaired and whether or not the requisite vote has been attained for each class.

#### **RULE 4001-1**

#### **AUTOMATIC STAY - RELIEF FROM**

A. Unless otherwise stated in the notice of hearing, a preliminary, non-evidentiary hearing under 11 U.S.C. § 362(e) will be restricted to the pleadings, affidavits and documents of record, and argument of counsel.

B. The movant shall file with the Motion, or within five (5) days after service of the notice of hearing, the following as appropriate in the circumstances:

(1) An affidavit of indebtedness;

(2) Copies of documents, including filing and recording information necessary to establish a perfected secured interest;

(3) An appraisal or other evidence of value together with the qualifications of the appraiser;

(4) An affidavit showing such facts as may be necessary to demonstrate the movant's right to relief from stay.

C. If the motion is opposed, the debtor or the trustee shall file a response within fifteen (15) days after entry of the Court's order and notice of preliminary hearing; said response shall be accompanied by such appraisals, affidavits and documents as may be necessary to demonstrate the movant is not entitled to relief from the stay. If no response is filed within the time provided by this rule, the Court may grant the motion without a hearing.

D. In final hearings under 11 U.S.C. § 362(e), respective counsel shall present competent evidence admissible under the Federal Rules of Evidence either in support of, or in opposition to, the motion.

E. Not less than ten (10) days prior to the final hearing, each party shall furnish a list of the names and addresses of all witnesses (designating expert witnesses as such) and copies of all exhibits that such party intends to introduce at trial.

F. A party who intends to introduce the testimony of an expert witness shall make such witness available for deposition upon reasonable notice.

G. The moving party may, without leave of court, take a deposition of the trustee, debtor, and debtor-in-possession ten (10) days after the date of service of the motion. Leave of Court must be obtained only if the moving party seeks to take the deposition of the trustee, debtor, or the debtor-in-possession prior to the expiration of ten (10) days after the date of service of the motion. Leave of Court is not required if a trustee, debtor, or debtor-in-possession has served a notice of taking deposition or otherwise sought discovery after service of the motion.

H. Any party in interest shall be entitled to inspect the property which is the subject of a motion under this rule upon reasonable notice. The notice shall provide for inspection not less than five (5) days from the date of service of such notice unless the time is shortened or extended by the Court.

I. For the purpose of this rule, the time for responding under Bankruptcy Rule 7033, 7034 and 7036, is reduced to twenty (20) days unless otherwise directed by the Court.

## **RULE 4003-2**

### **LIEN AVOIDANCE**

A. A motion to avoid a lien under 11 U.S.C. § 522(f) and Bankruptcy Rule 4003(d) may name only one creditor as respondent. A separate motion is required for each creditor whose lien or transfer is sought to be avoided.

B. The debtor shall serve a copy of the motion together with any appraisal or other evidence of value upon which the debtor intends to rely upon the respondent in accordance with Bankruptcy Rule 7004.

C. The respondent shall have thirty (30) days within which to file and serve on the debtor a response to the motion. Any response shall include a copy of any appraisal or other evidence of value upon which the respondent intends to rely. The debtor shall make the property in question available to the creditor or creditor's agent or appraiser at a mutually agreeable time for the purpose of making an appraisal.

D. If a timely response is filed, the matter will be noticed for an evidentiary hearing. If the respondent fails to file a timely response, the motion may be granted without further notice or hearing.

## **RULE 5005-1**

### **ELECTRONIC FILING**

The Clerk of the Bankruptcy Court may accept for filing documents submitted, signed, verified or served by electronic means that are consistent with technical standards, if any, that the Judicial Conference of the United States establishes and that comply with the administrative procedures established by the Bankruptcy Court.

## **RULE 5011-1**

### **WITHDRAWAL OF REFERENCE**

A. CASES:

(1) A case referred to the Bankruptcy Court may be withdrawn by the District Court for cause shown on a timely motion filed by any party in interest. The motion to withdraw the reference of a case, in whole or in part, shall be filed with the Clerk of the Bankruptcy Court no later than



thirty (30) days after the 11 U.S.C. § 341(a) Meeting of Creditors is concluded. Parties in interest without notice or actual knowledge of the pendency of the case may move to revoke the reference not later than fifteen (15) days after having acquired actual knowledge of the pendency of the case.

(2) Upon filing of a Motion to Withdraw Reference, the Clerk of the Bankruptcy Court shall forthwith transmit the motion to the Clerk of the District Court together with the pertinent record and any subsequent responses.

(3) The motion shall be served on counsel of record for the debtor or, if the debtor has no attorney, on the debtor and U.S. Trustee. The debtor shall have ten (10) days after service of the motion to file a response. The District Court may dispose of the motion with or without a hearing.

(4) Upon final disposition of a case transmitted to the District Court pursuant to an Order Withdrawing Reference of the case, the Clerk of the District Court shall transmit to the Bankruptcy Court a copy of the entire case file originally transmitted to the District Court together with the order, judgment, or decree entered by the District Court.

(5) In the event the Motion to Withdraw Reference is denied, the Clerk of the District Court shall forthwith retransmit the motion to the Clerk of the Bankruptcy Court together with the matters originally transmitted.

#### **B. PROCEEDINGS:**

(1) A proceeding arising in, under or related to a case referred to the Bankruptcy Court pursuant to the Order of General Reference may be withdrawn by the District Court for cause shown on a timely motion filed by a party in interest. The Motion to Withdraw Proceeding must be filed with the Clerk of the Bankruptcy Court not later than the date set for filing an answer under Bankruptcy Rule 7012 or within twenty (20) days after the Bankruptcy Court has made a determination that a proceeding is a non-core matter.

(2) A Motion to Withdraw Proceeding must specifically identify the proceeding sought to be withdrawn, setting forth the exact style, title, and adversary number where applicable.

(3) Immediately upon docketing the Motion to Withdraw Proceeding, the Clerk of the Bankruptcy Court shall forthwith forward the motion to the District Court together with and all papers pertaining to the proceeding sought to be withdrawn.

(4) A Motion to Withdraw Proceeding shall be served on counsel of record for the debtor or, if the debtor has no attorney, on the debtor. The debtor shall have ten (10) days after service of the motion to file a response. The District Court may dispose of the motion with or without a hearing.

(5) Upon final disposition of a proceeding transmitted to the District Court pursuant to an Order Withdrawing Reference, the Clerk of the District Court shall transmit to the Bankruptcy Court a copy of the entire record originally transmitted to the District Court together with any order, judgment, or decree entered by the District Court.

(6) In the event that the reference of a proceeding is withdrawn by the District Court and the bankruptcy case is subsequently dismissed by order of the Bankruptcy Court, the Clerk of the Bankruptcy Court shall immediately certify to the District Court that an order of dismissal has been entered.

## **RULE 5011-2**

### **ABSTENTION**

A. Unless otherwise ordered by the Bankruptcy Court, a Motion for Abstention under 11 U.S.C. §305 of the Code shall not toll, suspend, or otherwise change the time period for filing responsive pleadings or motions in pending matters.

B. An Order of Abstention shall have the effect of closing the file of the case.

C. All requests for the Court to abstain in a case under Title 11 shall be filed no later than thirty (30) days after the 11 U.S.C. §341(a) Meeting of Creditors is concluded.

**RULE 5081-1**

**FEES - FORM OF PAYMENT**

The filing fee must be paid by an attorney's office or trust account, check, cash, money order, or preapproved credit card. If paid by check, there should be a separate check for each petition or item filed.

**RULE 6004-1**

**SALE OF ESTATE PROPERTY**

A. In sales of property of the estate, other than in the ordinary course of business, the trustee shall prepare and file a Report and Notice of Intention to Sell Property of the Estate (see local forms page on court Internet site). Where the value of the estate's interest in the property is less than \$1,000.00, notice need be given only to the debtor, debtor's attorney, any committee or its authorized agent, the U.S. Trustee's Office, and to any creditor and equity security holders who file a request that all notices be sent to them.

B. Sales of property of the estate free and clear of liens pursuant to 11 U.S.C. § 363(f) and Bankruptcy Rule 6004(c) shall be accomplished in the following manner:

(1) File a motion pursuant to Rule 6004(c) for authority to sell property free and clear of liens or other interest, and serve the motion on the parties thereto who have liens or other interest in the property to be sold; and

(2) File a notice of sale (see local forms page on court Internet site) as provided in Rule 6004(a), and serve the notice on all creditors and parties in interest.

C. All objections to the sale, whether by a party with an interest in the property or otherwise, shall be set for hearing at the same time. If no objections to the sale are filed, the motion shall be granted without a hearing and the sale may proceed without further notice or hearing.

## **RULE 6007-1**

### **ABANDONMENT**

A. Any party in interest, other than a trustee, who seeks to have property abandoned from the estate may do so by complying with the following:

(1) Prepare a Report and Notice of Trustee's Intention to Abandon Property of Estate (see local forms page on court Internet site). Present the original prepared Report and Notice to the trustee and enclose the following documentation or information:

(a) Evidence of indebtedness owed including promissory notes, statements of account or the like;

(b) Affidavit of amount due with calculations set forth in detail;

(c) Evidence of perfection of the lien or encumbrance including mortgages, security agreements, UCC filings and copies of titles showing liens; and

(d) Evidence as to value.

(2) (a) If the property to be abandoned is encumbered by liens greater than the value of the property, notice shall be given only to the debtor, debtor's attorney, any known lienholders, the creditor's committee, if any, and the U.S. Trustee's office.

(b) If the property to be abandoned is not encumbered by any liens but has a value totaling less than \$500.00, notice shall be given to the debtor, debtor's attorney, the creditor's committee, if any, and the U.S. Trustee's office.

(3) The party in interest who has requested the abandonment shall file the original Report and Notice and a Certificate of Service with the Clerk.

B. Unless an objection is filed within fifteen (15) days of the filing of the notice or within such other time fixed by the Court, the abandonment will be deemed final and no order will be issued.

## **RULE 7001-1**

### **ADVERSARY PROCEEDINGS**

An adversary proceeding governed by Part VII of the Bankruptcy Rules shall be commenced by the filing of a complaint. The filing shall include the Adversary Proceeding Cover Sheet (Form B 104), the Summons (Form BK 177), and the appropriate filing fee (see local forms page on court Internet site). The caption of the complaint shall conform substantially with Official Form No. 34. The plaintiff's attorney shall fill in the names of the parties on the Summons, and the Clerk's office will complete the remainder of the Summons and return it to the plaintiff for service together with a copy of the complaint.

## **RULE 7004-1**

### **SERVICE OF PROCESS**

Service is the responsibility of the plaintiff's attorney and must be affected in accordance with Bankruptcy Rule 7004. Upon completion of service, a certificate of service showing compliance with Bankruptcy Rule 7004 must be executed and filed and a copy of the certificate provided to the defendant. The back of the original Summons may be used for this purpose.

## **RULE 7007-1**

### **MOTION PRACTICE - ADVERSARY PROCEEDINGS**

A. In adversary proceedings, counsel for the moving party shall confer with counsel for the opposing party and shall file with the Court at the time of filing a motion, or within three (3) days thereafter, a statement certifying that he has conferred with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised and the result thereof. If certain of the issues have been resolved by agreement, the certificate shall specify the issue so resolved and those remaining for resolution. Counsel shall clearly identify those motions which are consented to in their entirety. The statement shall specify the amount of time requested for hearing on the motion.

B. Each motion shall contain no more than one claim or request for relief unless the prayer is seeking alternative relief provided for in a single section of the Bankruptcy Code or Rules.

**RULE 7008-1**

**CORE - NON-CORE PROCEEDINGS**

If an issue is raised under Bankruptcy Rule 7008(a) as to whether a proceeding is core or non-core, the party instituting the proceeding shall, within fifteen (15) days after the service of the pleading creating the issue, file a motion seeking a determination as to whether the proceeding is core or non-core.

**RULE 7016-1**

**PRE-TRIAL PROCEDURES**

N.D. Fla. Loc. R. 16.3, MEDIATION, shall be applicable in all adversary proceedings and contested matters as directed by the Bankruptcy Court. (see Addendum B)

**RULE 7026-1**

**DISCOVERY - GENERAL**

A. Before filing a motion to compel pursuant to Bankruptcy Rule 7037, or a motion for protective order pursuant to Bankruptcy Rule 7026, counsel for the moving party shall confer with counsel for the opposing party in a good faith effort to resolve by agreement the issues raised, and shall file with the Court at the time of filing the motion a statement certifying that counsel has so conferred with opposing counsel and that counsel have been unable to resolve this dispute.

B. Motions to compel discovery pursuant to Bankruptcy Rule 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 therefore as stated by the opposing party; and

(3) the reasons such objection should be overruled and the motion granted.

C. For the guidance of counsel in preparing or opposing contemplated motions for a protective order pursuant to Bankruptcy Rule 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 may reasonably be deposed at least once in this District during the discovery stages of the case; and that a nonresident defendant who intends to be present in person at trial 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 as the circumstances seem to suggest. A nonresident, within the meaning of this rule, is a person residing outside the Northern District of the State of Florida.

#### **RULE 7041-1**

#### **DISMISSAL - FAILURE TO PROSECUTE**

Whenever, in any civil action, it appears that no activity by filing of pleadings, orders of the Court or otherwise has occurred for a period of more than ninety (90) days, the Court may, on motion of any party in interest or on its own motion, enter an order to show cause why the action should not be dismissed, and if no satisfactory cause is shown, the action may be dismissed by the Court for want of prosecution.

#### **RULE 7054-1**

#### **COST - TAXATION/PAYMENT**

When appropriate, motions to tax costs and attorney fees in actions or proceedings shall be filed not later than thirty (30) days after termination of such actions or proceedings.

#### **RULE 7055-1**

#### **DEFAULT**

A. A party seeking entry of a default by the Clerk shall file a motion which shall state:

- (1) Upon whom, how, and when service was made, with reference to the applicable Bankruptcy Rule;
- (2) The date on which a responsive pleading was due;
- (3) That no extension of time was sought or obtained by the adverse party; and

- (4) That the movant seeks an entry of default.
- B. The party seeking a judgment by default shall file the following:
- (1) An affidavit in support of the allegations set forth in the complaint;
  - (2) An affidavit of non-military service (where applicable);
  - (3) A motion for entry of default final judgment; and
  - (4) A proposed order granting the motion for entry of default final judgment setting forth the relief to be provided in the final judgment.

#### **RULE 7067-1**

#### **REGISTRY FUND**

A. Whenever a party seeks a court order for money to be deposited by the Clerk in an interest-bearing account or investment, the party shall file with the Clerk's Office its motion along with a proposed order. (See local forms page on court Internet site.)

B. The Clerk is directed to deduct from the income earned on the deposit a fee not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office of the U.S. Courts in accordance with the schedule which shall be published periodically by the Director in the Federal Register. This assessment shall apply to all registry fund investments regardless of the nature of the case underlying the investment at the conclusion of the case.

#### **RULE 9004-2**

#### **CAPTION - PAPERS, GENERAL**

A. If a pleading contains a prayer for injunctive relief pursuant to Bankruptcy Rule 7065, the title of the pleading shall include the words: "*AND PRAYER FOR INJUNCTIVE RELIEF.*"

B. The caption of a motion shall identify the filing party and designate



the matter at issue. If the motion contains a memorandum, the caption shall so state. For example, "*TRUSTEE'S MOTION TO COMPROMISE AND SETTLE CONTROVERSY AND MEMORANDUM.*"

C. 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, and it shall be styled: "Amended & Restated (Name of Pleading)."

#### **RULE 9006-1**

##### **TIME PERIODS**

A. All time periods established in these rules may be extended or shortened by the Court upon a showing of cause.

B. In computing any period of time prescribed or allowed by an order of this Court, the date such period shall commence is the date the order is docketed by the clerk pursuant to Rule 5003 of the Bankruptcy Rules.

#### **RULE 9013-2**

##### **BRIEFS AND MEMORANDA OF LAW**

A. A moving party shall serve and file with every motion or application in a contested matter or adversary proceeding a memorandum of law or other citation of authority in support of the motion.

B. Each party objecting to the relief being sought shall file and serve, within fifteen (15) days after service of the motion or application, a response and memorandum with citation of the authorities. Failure to file a response and such memorandum may be sufficient cause for the granting of the motion by default.

C. Absent prior permission of the Court, no party shall file any brief or legal memorandum in excess of twenty (20) pages (exclusive of exhibits).

## **RULE 9014-1**

### **WITNESSES AND EVIDENTIARY HEARINGS**

When a party determines an evidentiary hearing is required, counsel shall telephone Judge's chambers upon the filing of the related motion in order for the evidentiary hearing to be properly noticed by the court. Counsel shall file a witness and exhibit list after receiving the notice of evidentiary hearing.

## **RULE 9015-1**

### **JURY TRIAL**

A. Applicability of Certain Federal Rules of Civil Procedure. Rules 38, 39, 47-51 F.R.C.P., and Rule 81(c) F.R.C.P. insofar as it applies to jury trials, apply in all cases and proceedings, except that a demand made under Rule 38(b) F.R.C.P. shall be filed in accordance with Bankruptcy Rule 5005.

B. A demand for a jury trial shall include a statement indicating the demanding party's consent or non-consent to have the jury trial conducted by a bankruptcy judge. The adverse party shall file a statement of consent or non-consent within twenty (20) days after the case or matter is at issue or within ten (10) days after the final determination of a right to a jury trial by the Bankruptcy Court, whichever date is later.

C. Pursuant to the "Order Designating Bankruptcy Judges to Conduct Jury Trials" entered by the United States District Court for the Northern District of Florida on January 3, 1995, the Federal Rules of Civil Procedure, Federal Rules of Evidence, and the Northern District of Florida Local Rules shall apply to the conduct of all proceedings involving a jury trial in the Bankruptcy Court. A copy of the Order of the District Court can be found on the court Internet site.

[NOTE: This rule provides procedures relating to jury trials. This rule is not intended to expand or create any right to trial by jury where such right does not otherwise exist.]

## **RULE 9070-1**

### **EXHIBITS**

A. No later than one day prior to trial or an evidentiary hearing, counsel for the parties shall mark, list, and exchange all exhibits which they plan to

introduce into evidence.

B. Each exhibit shall be tagged separately with a tag containing the following information:

RECEIVED AS PLAINTIFF // DEFENDANT // JOINT // EXHIBIT  
NO.  
CASE NO.  
ADVERSARY NO.  
FOR ID. \_\_\_\_\_ IN EVIDENCE

C. Exhibits shall be identified numerically commencing with number 1.

D. All exhibits must be listed in order on a separate sheet of paper (see local forms page on court Internet site).

E. The original of the documentary exhibits and listing of exhibits shall be furnished to the Clerk at the commencement of the hearing or trial period.

F. All exhibits produced at hearing or trial which are not pre-marked shall be tendered to and marked by the Court Clerk (or Court Reporter if no Court Clerk is present) as they are presented in evidence.

G. Once a judgment or order in an adversary proceeding or contested matter in which exhibits have been received by the Court becomes final, the Clerk shall give notice to all parties to reclaim their exhibits. The parties shall have thirty (30) days from the date of said notice to either reclaim their exhibits or to make arrangements with the Clerk to do so. Exhibits which are not reclaimed shall be discarded or destroyed.

#### **RULE 9071-1**

#### **STIPULATIONS**

No stipulation or agreement between any parties or their attorneys, the existence of which is not conceded, in relation to any aspect of any pending case, will be considered by the Court unless the same is made before the Court or is reduced to writing and subscribed by the party or attorney against whom it is asserted.

## **RULE 9072-1**

### **ORDERS – PROPOSED**

A. All proposed orders shall carry a full, descriptive title detailing the nature of the matter ruled upon. The name of the preparer shall appear in the lower left hand corner of the signature page. All parties on whom service of the order is to be made shall be listed under the signature block.

B. No order or judgment will be entered where the date or signature of the Court is the only text on a page.

C. Proposed orders and judgments shall be submitted electronically as an email attachment to the email address noted on the Court's website. Specifications regarding formatting, consent language and naming conventions are described in the Administrative Procedures also located on the Court's website, and must be strictly adhered to in all cases.

D. The proposed order shall be furnished electronically to the parties in interest with respect to the proposed order (i.e., those parties in interest affected by the order).

## **RULE 9073-1**

### **HEARINGS**

A. If a movant seeks a hearing on a motion, or if the motion does not request a hearing, and an entity filing a response desires a hearing, the title of the motion or response shall include the following language: "...And Request For Hearing."

B. (1) When filing a motion, response to a motion, or pleading which seeks an emergency hearing, the docket text should be modified to include the words "Emergency Motion." Pursuant to instructions included on the electronic filing screen, the Judge's chambers should be contacted by telephone if an emergency hearing is required.

(2) Emergency hearings shall ordinarily be held only where direct, immediate, and substantial harm will occur to:

(a) the interest of an entity in property;

(b) the estate; or

(c) the debtor's ability to reorganize if the parties are not able to obtain an immediate resolution of the dispute.

(3) A motion seeking an emergency hearing shall be accompanied by a "Statement of Need For Emergency Hearing" stating:

(a) why the relief requested requires an emergency hearing;

(b) that the need for an emergency hearing is not caused by lack of due diligence by the party, or its counsel, seeking the relief; and

(c) that efforts have been made to resolve the issue without an emergency hearing.

C. All hearings may be adjourned or continued from time to time by announcement made in open court without further written notice.

## **ADDENDUM A**

### **CUSTOMARY AND TRADITIONAL CONDUCT AND DECORUM IN THE UNITED STATES DISTRICT COURT**

A. The purpose of this addendum is to state for the guidance of those heretofore unfamiliar with the traditions of this United States District Court certain basic principles concerning courtroom conduct and decorum. These standards are minimal and not all-inclusive. They are intended to emphasize and supplement, not supplant or limit, the ethical obligations of counsel under the Code of Professional Responsibility or the time honored customs of experienced trial counsel.

B. When appearing in the United States District Court, all counsel and all persons at counsel table should conduct themselves in the following customary and traditional manner:

- (1) Stand as court is opened, recessed or adjourned.
- (2) Stand when the jury enters or retires from the courtroom.
- (3) Stand when addressing, or being addressed by, the Court.
- (4) Address all remarks to the Court, not to opposing counsel.
- (5) Avoid disparaging personal remarks or acrimony toward opposing counsel and remain wholly detached from any ill feeling between the litigants or witnesses.
- (6) Refer to all persons, including witnesses, other counsel and the parties, by their surnames and not by their first or given names.
- (7) Counsel should request permission before approaching the bench; and any document counsel wishes to have the Court examine should be handed to the clerk.
- (8) Unless opposing counsel has previously been shown exhibits, any exhibit offered in evidence should, at the time of such offer, be handed to opposing counsel.
- (9) 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.

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

(11) Offers of, or requests for, a stipulation should be made privately, not within the hearing of the jury.

(12) 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 manuscripts, 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.

(13) Counsel shall admonish and discourage all persons at counsel table from making gestures, facial expressions, audible comments, or the like, as manifestations of approval or disapproval during the testimony of witnesses, or at any other time.

(14) Smoking, eating, food and drink are prohibited in the courtroom at any time.

## ADDENDUM B

### MEDIATION

(A) **Definition.** Mediation is an opportunity for the parties to negotiate their own settlement. Mediation is a supervised settlement conference presided over by a neutral mediator to promote conciliation, compromise and the ultimate settlement of a civil action. The mediator may be a mediator certified in accordance with these rules or any person mutually agreed upon by all parties. The mediator's role in the settlement suggest alternatives, analyze issues, question perceptions, conduct private caucuses, stimulate negotiations between opposing sides, and keep order. The mediation process does not allow for testimony of witnesses. The mediator does not review or rule upon questions of fact or law, or render any final decision in the case. Absent a settlement or consent of the parties, the mediator will only report to the presiding judge whether the case settled, was adjourned or continued for further mediation, or was terminated because settlement was not possible and the mediator declared an impasse.

(B) **Purpose.** Mediation is intended as an alternative method to resolve civil cases, thereby saving time and cost without sacrificing the quality of justice to be rendered or the right of the litigants to a full trial in the event of an impasse following mediation.

(C) **Qualifications of Mediators.** Any person who is certified and remains in good standing as a circuit court mediator under the rules adopted by the Supreme Court of Florida is qualified to serve as a mediator in this district. By mutual agreement and with court approval, any other person may be a mediator in a specific case.

(D) **Standards of Professional Conduct for Mediators.** All mediators, whether certified or not, who mediate in cases pending in this district shall be governed by standards of professional conduct and ethical rules adopted by the Supreme Court of Florida for circuit court mediators.

(E) **Disqualification of a Mediator.** After reasonable notice and hearing, and for good cause, the presiding judge shall have discretion and authority to disqualify any mediator from serving as mediator in a particular case. Good cause may include violation of the standards of professional conduct for mediators. Additionally, 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 case in which such action would be required by a justice, district judge, or magistrate judge governed by 28 U.S.C. § 455.



(F) **Compensation of Mediators.** Absent agreement by all parties to the contrary, mediators shall be compensated and reimbursed for expenses at the rate set by the court. Further, absent agreement of the parties to the contrary or order of the court for good cause shown, the cost of the mediator's services shall be paid equally by the parties to the mediation conference.

(G) **Limitations on Acceptance of Compensation or Other Reimbursement.** Except as provided by these rules, no mediator shall charge or accept in connection with the mediation of any particular case, any compensation, fee, or any other thing of value from any other source without prior written approval of the court.

(H) **Mediators as Counsel in Other Cases.** Any member of the bar who is certified or selected as a mediator pursuant to these rules shall not, for that reason alone, be disqualified from appearing and acting as counsel in any other case pending in this district.

(I) **Referral to Mediation.** Any pending civil case may be referred to mediation by the presiding judicial officer at such time as the judicial officer may determine to be in the interests of justice. The parties may request the court to submit any pending civil case to mediation at any time.

**INDEX**

**ADVERSARY PROCEEDINGS**

- Dismissal of...31
- Governed by...29
- Motions Practice ...29

**ATTORNEYS**

- Admission, not required...15
- Appearance & Withdrawal...14
- Conduct & Decorum...14, 38
- General Admission...14
- Representation, when required...15,16

**CASE**

- Abstention from...26
- Conversion...7
- Withdrawal of Reference...24

**CONDUCT AND DECORUM**

- Code of Professional Responsibility...38
- Customary...38

**CONTESTED MATTERS**

- Abstention...26
- Adversary Proceedings...29
- Appraisals...18
- Briefs; Memorandums of Law...33
- Cost - Taxation Payment...31
- Default Judgment...31
- Forms of pleadings, special requirements...32
- Jury Trial...34
- Lien Avoidance...24
- Liens, Sales Free & Clear of...27
- Mediation ...40
- Motion & Objection Practice...29
- Objections to Claims...17
- Pre-Trial Procedures...30
- Proposed Orders & Judgments...36
- Stay Litigation...22
- Stipulation, written, required...35

**DISMISSALS**

- Case...7
- Failure to Prosecute...31

**EXHIBITS**

- Marking, listing and reclaiming of...34

**ELECTRONIC FILINGS**

- Electronic Filing...24
- See Standing Order and Administrative Procedures on court Internet site

**EVIDENTIARY HEARINGS**

- Evidentiary Hearings...34

**FORMS**

- See local forms page on court Internet site – [www.flnb.uscourts.gov](http://www.flnb.uscourts.gov)

**FUNDS**

- Deposit of, Court registry...32

**JOINT ADMINISTRATION**

- Joint Administration...6

**LOCAL RULES**

- Definitions...4
- Effective Date...4
- General Statement & Application...4
- Time Periods...33

**MOTIONS**

- Hearings, Emergency...37
- Hearings, Routine Requests...36
- Proposed Orders...36

**PETITIONS, VOLUNTARY**

- Amendments...6
- Dismissal...7
- Jurisdiction...8
- Lists, Schedules, Statements...5
- Matrix, Mailing List...6
- Meeting of Creditors...8
- Notice to Creditors...8

**PRACTICE & PROCEDURE - CHAPTER 7**

- Abandonment of Estate Property...28
- Compensation of Professionals, Application...9
- Conversion...7
- Sales of Estate Property...27

**PRACTICE & PROCEDURE - CHAPTER 11**

- Authority to Operate...11
- Compensation of Professionals...9
- Confirmation...21
- Confirmation, Order of...11
- Consummation...12
- Creditors' Committees...11
- Disclosure Statement - General...19
- Duties of Debtor in Possession...8
- Monthly Operating Statements...9
- Post Confirmation Matters...12
- Valuation...18

**PRACTICE & PROCEDURE - CHAPTER 12**

- Compensation of Professionals...9
- Duties...14
- Farm Plan...13
- Pre-Confirmation Matters...12

**PRACTICE & PROCEDURE - CHAPTER 13**

- Compensation of Professionals...9
- General...14
- Statement and Plan...5

**PROPERTY OF ESTATE**

- Abandonment of...28
- Sales of...28

**SECTION 341 MEETINGS AND HEARINGS**

- Continuation of...8

WITHDRAWAL OF

Cases, Denial...24

Cases, Motion to Withdraw, Timely Filing of...24

Proceedings, Core- Non-Core...30

WITNESSES

Witnesses...34