

SUMMARY OF PRELIMINARY DRAFT

***PROPOSED LOCAL BANKRUPTCY
RULES***

***UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA***

Dated: May 25, 2017

Local Rules Advisory Committee,
Eastern District of Pennsylvania Bankruptcy Conference

Professor Walter J. Taggart, Reporter

Local Rule 1002-2: Complex Chapter 11 Cases: General

The eligibility criteria for qualifying as a complex chapter 11 case under this rule have been revised to lower slightly the threshold for treatment as a complex case, but otherwise this rule remains basically the same as it was under 2016 L.B.R.1002-2.

Subdivision (a). 2016 L.B.R.1002-2(a) required that to qualify to file as a chapter 11 complex case a chapter 11 debtor had to have \$10 million in debt and be either a publically traded company or have “100 or more parties in the case.” Under the revised rule, satisfying any one of the three criteria qualifies a debtor to file a chapter 11 complex case.

In addition, under the revised rule the qualifying amount of debt is reduced to “three times the dollar amount stated in §101(51D),” which is the maximum amount of debt a chapter 11 debtor may have and be within the Code definition of a small business debtor. Currently that amount is \$2,566,050, which means a debtor with \$7,698,150 in debt may file a complex chapter 11 case.

Subdivision (b). The restriction in 2016 L.B.R. 1002-2(b) that a statement of qualification for complex case status must be filed with the petition has been eliminated.

Subdivisions (c), (d), and (g) provide a simplified procedure to obtain an expedited hearing date for motions and applications. Under, subdivision (c), if a motion for an expedited hearing is filed within 10 days of the filing of the case, the court’s outside target for scheduling the expedited hearing is 3 days after the motion is filed.

Subdivision (d)(1) requires a specific form of notice and service. There is also a special service list tailored for the first few days after the case is filed. The notice and any applications or motions that will be heard at the expedited hearing must be served on those on that service list. The revised service list no longer includes references to specific local taxing and regulatory departments or agencies and substitutes in paragraphs (1)(E) and (1)(F) the requirement that any taxing or regulatory authority with jurisdiction over the debtor must be served.

Subdivision (d)(2) contains the following new list of the permissible methods of service: “hand delivery, overnight delivery, facsimile or electronic mail, or as otherwise directed by the court.”

Subdivision (g) retains the deadline for filing an objection to the debtor’s statement of qualification or an objection or response to any application or motion on the Expedited Hearing Agenda as any time before the Expedited Hearing or orally at the Expedited Hearing.

Since the court has discretion to terminate the Complex Chapter 11 status of a debtor’s case at any time, a motion to terminate Complex Chapter 11 status may be filed at any time.

Local Rule 1002-3: Complex Chapter 11 Cases: Selection of Motions and Applications for Expedited Hearing.

Subdivision (a) maintains the existing standard for putting a motion or application on the Expedited Hearing Agenda: it must appear that resolving the matter quickly will enhance the possibility that the debtor will remain operating and be able to preserve property of the estate, as well as facilitating the efficient administration of the case.

Subdivision (b) expands the list of examples of motions and applications that typically would be placed on the Expedited Hearing Agenda. The 3 new examples on the list appear as the following paragraphs:

(7) Motion to Establish Procedures for Handling Reclamation Claims;

(8) Motion to Establish Procedures for Sale of Property;

(9) Motion Concerning the Appointment of a Consumer Privacy Ombudsman or Patient Care Ombudsman.

Local Rule 1002-4: Complex Chapter 11 Cases: Automatic Reconsideration.

This rule is derived from 2016 L.B.R. 1002-5.

Subdivision (a) is revised by shortening the deadline to file a motion for automatic reconsideration from 30 to 14 days after the entry of the order for which reconsideration is sought. A 14-day deadline is also imposed under Fed. R. Bankr. P. 9023 for filing a motion for a new trial or to amend a judgment.

Subdivision (b) is a stylistic revision of 2016 L.B.R. 1002-5(b).

Subdivision (c) is new. The subdivision makes it clear that the party who had the burden of proof on the original motion also has the burden of proof of that motion when the court reconsiders its disposition of the motion.

Local Rule 1007-1: Notice to Creditors with an Interest in Cash Collateral.

This rule is the same as 2016 L.B.R. 1007-1(c), except that the revised rule applies to cases under all chapters, not just chapters 11 and 12.

Local Rule 1007-2: Matrix List of Creditors.

2016 L.B.R. 1007-2 has been divided into L.B.R. 1007-2 covering the Matrix List of Creditors filed with the petition, and L.B.R. 1007-3 covering supplementing the Matrix List of Creditors.

Subdivisions (a) and (b). 2016 L.B.R. 1007-2(a), which sets forth the format for the Matrix List of Creditors, has been deleted. Under the revised rule, the Clerk prescribes how the Matrix List of Creditors

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Subdivisions (c) maintains the debtor's duty to file the Matrix List.

Subdivision (d) and (e) retain the requirements that the Matrix List of Creditors be filed with the petition in a voluntary case and within 14 days the entry of an order for relief in an involuntary case. Subdivision (d) makes clear that failure to file the Matrix List may be cause for dismissal of a voluntary case.

Subdivision (f), which provides that a filed Matrix List of Creditors fulfills the debtor's obligation under Fed. R. Bankr. P. 1007(a)(1) or (a)(2) to file a list of creditors, is the same as 2016 L.B.R. 1007-2(g).

Local Rule 1007-3: Supplementing the Matrix List of Creditors

Subdivision (a) is new. It states an affirmative duty on the debtor to supplement the Matrix List of Creditors promptly when the debtor amends a schedule to add a creditor or files a schedule of post-petition debts.

Subdivision (b) retains from 2016 L.B.R. 1007-2(f) the provision that the Matrix List of Creditors does not have to be supplemented to list a party who requests notices under Fed. R. Bankr.P. 1007(a)(1) and includes the new point that the Matrix List of Creditors does not have to be supplemented to list a party who files a proof of claim.

Rule 1007-4: Submission of Evidence of an Employer's Payments within 60 Days of Filing the Petition

The provision in 2016 L.B.R.1007-3(a) that permitted the debtor to deliver the payment information to the trustee and the United States Trustee has been eliminated and replaced with

the requirement that the payment information be filed with the court. Like all court filings, the payment information is subject to Fed. R. Bankr. P. 9037.

Local Rule 1009-1: Amendments to Voluntary Petition and Schedule: Adding a Creditor

Subdivision (a) is the same as 2016 L.B.R. 1009-1(a), except instead of having to serve the amendment of a voluntary petition or schedule on “the trustee, any official committee, the United States trustee, and all parties affected by the amendment” the revised rule requires service on those on the Clerk’s Service List.

Subdivision (b). The revisions to subdivision (b) are stylistic.

Subdivision (c) retains the requirement that if the amendment to a schedule adds a creditor after the notice of the § 341 meeting has been sent out, the debtor must provide the added creditor with a copy of the § 341 notice, any notice of the deadline for filing a proof of claim, and any notice sent to all creditors. The revised paragraph includes the new qualification that the notice to all creditors only has to be served on an added creditor if the deadline for creditor action contained in the notice has not expired or the litigation that is the subject of the notice is still pending.

Subdivision (d) states the requirement that an amendment adding a creditor must be accompanied by any required filing fee or an application for waiver of the fee due to the debtor’s indigence.

Subdivision (e) is new. It states the requirement that a Certification of Service as required by L.B.R. 9014-4 be filed after amendments adding a creditor are filed.

Local Rule 1017-1: Conversion of a Case

2016 L.B.R. 1017-1(a), which provided that a debtor who files a notice of conversion under § 1208(a) or § 1307(a) shall serve a copy of the notice on the trustee, has been omitted from the revised rule as unnecessary due to the electronic service the trustee receives.

Subdivisions (a) and (b) continue to provide that motions under § 706(a) and § 1112(a) to convert a case to another chapter are governed by L.B.R. 9014-2 and that all other motions to convert are governed by L.B.R. 9014-3. The revised rule requires that in addition to serving the motion, the proposed order, and the notice of motion on those on the Clerks Service List as required by L.B.R. 9014-3, the movant must serve the notice on those on the Matrix List of Creditors.

Rule 1017-2: Dismissal of Case

Subdivisions (a) and (b) continue to provide that a motion by a debtor under § 1208(b) or § 1307(b) to dismiss a case is governed by L.B.R. 9014-2 and that all other motions to dismiss are governed by L.B.R. 9014-3. The revised rule requires that, in addition to serving the motion, the proposed order, and the notice of motion on those on the Clerks Service List as required by L.B.R. 9014-3, the movant must serve the notice on those on the Matrix List of Creditors.

Local Rule 1019-1: Conversion: Filings Following.

This rule is the same as 2016 L.B.R. 1019-1 in providing that within 14 days of the conversion a case to either a chapter 7 or chapter 13 case the debtor must file in the chapter 7 or chapter 13 case a schedule of post-petition debts incurred in the original case, but eliminates the requirement that 3 additional paper copies of the schedule be filed. Subdivision (b)(2) is new and, for sake of clarity, by reference to Fed. R. Bankr. P. 3015(b), requires that when a conversion is to a chapter 13, the chapter 13 plan must be filed within 14 days.

Local Rule 2002-1: Request for Notice

This rule, which is derived from 2016 L.B.R. 2002-1(c), specifies the new requirement that a request to receive all notices in a case under Fed. R. Bankr. P. 2002(i) must include an email address in addition to the name, address, phone number, and fax number of the creditor or other party filing the request. 2016 L.B.R. 2002-1(a) has been deleted as unnecessary. The content of 2016 L.B.R. 2002-1(b) is now covered by L.B.R. 2016-1 thru 2016-5.

Local Rule 2002-2: Clerk's Service List

This rule is the same as 2016 L.B.R. 2002-1(c) in directing the Clerk to maintain a Clerk's Service List for each case that lists the name, address, phone number, email address, and fax number for a party who files a request under L.B.R. 2002-1 to receive all notices in the case. A new addition to this rule is the requirement that the Clerk automatically include on the list the contact information for the debtor; counsel for the debtor; the trustee; counsel for the trustee; counsel for any committee; and the United States Trustee.

A number of these local rules now provide that service must be made on those on the Clerk's Service List.

Local Rule 2004-1: Examinations

This rule has been extensively revised to make the process of obtaining authority to conduct an examination under Fed. R. Bankr P. 2004 more efficient.

Subdivision (a) maintains the requirement in 2016 L.B.R. 2004-1 that a party seeking an examination or production must consult with the proposed examinee before requesting that the court authorize an examination or production of documents.

Subdivision (b). If consultation among the parties results in an agreement on the "date, time, place and scope" of an examination or production of documents, the parties may proceed under subdivision (b)(1), *Examination by Agreement*, or (b)(2), *Examination by Consent Order*.

Under subdivision (b)(1), the court is not involved. The examination or production takes place as agreed without further process in court, except that notice of the examination must be filed with the court at least 7 days before the examination or production. Under subdivision (b)(2), the parties may enter into and submit to the court a consent order. Once the consent order

is filed, under subdivision (c)(2) the agreed to examination and production may take place no sooner than 7 days later.

If no agreement is reached, a motion for an examination or production must be filed. Subdivision (b)(3) requires a movant seeking an examination or production to include in the motion either a statement that the movant's attempt to obtain an agreement was not successful or to explain why the movant did not attempt to consult with the proposed examinee.

Subdivision (c). If a motion has to be filed, the practice in the past has been to wait until the motion is granted before issuing a subpoena for the examination or production. Subdivision (c)(1) now authorizes a party to issue a subpoena without the court having first granted a motion or approved a filed consent order. Subdivision (c)(2) provides that the date of the examination or production may not be sooner than 7 days after the scheduled hearing date on the motion.

Subdivision (d) applies when a subpoena is issued contemporaneously with the filing of the motion for the examination or production and coordinates motion practice concerning the request for examination or production with the practice of moving to quash or modify a subpoena under Fed. R. Civ. P. 45. Subdivision (d)(1) permits the inclusion of a request to quash or modify the subpoena in a response to the motion. Subdivision (d)(2) automatically stays the subpoena if within the 14-day period to respond to a motion under L.B.R. 9013-4(h) a motion to quash or modify the subpoena is filed or if a response to the motion includes a request to quash or modify the subpoena.

Local Rule 2010-1: Management and Disbursement of Estate's Funds

2016 L.B.R. 2010-1 and 2014-2 are combined as subdivisions (a) and (b) of this rule. Only the trustee may have signatory or other control over money and other property of the estate. An attorney may only exercise control over property of the estate if the attorney is the trustee or serving as a court appointed escrow agent.

Rule 2014-1: Employment of Professionals

2016 L.B.R. 2014-1 largely incorporated the application procedure in 2016 L.B.R. 9013-1. The rule has been revised to include within the rule the procedural requirements for requests to employ professionals.

Subdivisions (a) and (c)-(e), which govern an application to employ a professional, mirror the general procedure applicable to other applications under L.B.R. 9013-3.

Subdivision (b) is new. A debtor's application to employ a professional must be accompanied by a verified statement of the professional that provides summary information about pre-petition payments of the debtor to the professional. Under subdivision (b)(1), the professional must disclose the amount remaining on the petition date of money paid in advance to the professional for services to be rendered. Under subdivision (b)(2), the professional must list each payment received from the debtor within 90 days of the filing of the petition, describe how such payments were applied and state how much of the payment remained on account on the

petition date. This information is designed to facilitate the court's determination under 11 U.S.C. § 372(a). See In re Pillowtex, Inc., 304 F.3d 246 (3d Cir. 2002).

Local Rule 2015-1: Trustees and Debtors in Possession: Operating Reports

The rule expands on 2016 L.B.R. 2015-1 by requiring that any periodic report submitted by a trustee or debtor in possession to the United States Trustee, not just operating reports, must be filed in the case. The rule eliminates the duty to serve counsel for the committee with a copy of the operating report because once the report is electronically filed it will be available to counsel for the committee.

Local Rule 2016-1: Compensation of Professionals: Service

Subdivisions (a)-(d), and (f)-(g), which govern an application for compensation and reimbursement of expenses, mirror the general procedure applicable to certain applications under L.B.R. 9013-3, except the deadline for filing an objection to the application is 14 days after service of the application, not 7 days.

Subdivisions (e) and (h) are the same as 2016 L.B.R. 2016-1(a) and (f).

Local Rule 2016-2: Compensation of Professionals: Detailed Form of Application

Subdivisions (a) and (d)-(g) are substantially the same as 2016 L.B.R. 2016-3. One change is that in subdivision (e) the trigger point for mandatory use of categories of service in a fee application has been increased from \$50,000 to \$75,000.

Subdivision (b) is a new subdivision that applies to interim applications for compensation in chapter 7 cases and in liquidating chapter 11 cases. It requires the applicant to include in the application an overview of case administration plus a summary of administered assets, claim payments, and amount of money remaining in the estate.

Subdivision (c) is the same as 2016 L.B.R. 2016-5(l). It requires the inclusion of information about payments on account that the applicant has already received under L.B.R. 2016-5 for the period covered by the application for compensation.

Subdivision (e) contains a list of 22 categories of service for use in a fee application. It is reorganized and includes new categories, for example, corporate governance, avoidance actions, and non-working travel that were not included in the prior version. The new list is based on the project categories included in the 2013 fee-review regulations issued by the Executive Office for United States Trustees.

Subdivision (f) restates the applicant's discretion to use additional categories of service, but adds the new qualification that a category of service that solely refers to a procedural event or step in the case is unacceptable. For example, "Attend Court Hearings" is an impermissible procedural category.

Local Rule 2016-3: Applications for Compensation in Chapter 13 Cases

This rule with two modifications is the same as 2016 L.B.R. 2016-2 in providing for the use of a short form of the application for compensation in a chapter 13 case. The cut off point for using the short form is increased to \$4,000, if the debtor's income is below the applicable medium income, and \$5,000, if the debtor's income is above the applicable medium income.

Subdivision (c) is new. It provides for the periodic adjustment of the cutoff amounts for using the short form application in the same percentage as the amounts in the Code are adjusted under 11 U.S.C. §104. The next adjustment will be in April of 2019.

Local Rule 2016-4: Disclosure of Compensation

Subdivision (a) is revised by limiting the application of the subdivision to chapter 7, 12, and 13 cases. In addition, the subdivision no longer specifies what has to be disclosed about the attorney's payment arrangement with the debtor. The subdivision now provides that an attorney fulfills the §329 disclosure requirement by submitting Form B3020.

Local Rule 2016-5: Payment on Account to Professionals in Complex Chapter 11 Case

This rule is the same as 2016 L.B.R. 2016-5 with a few changes of note.

Subdivision (b). The 4 month limitation on the number of months that may be the subject of requests for payment on account is unchanged, but the text of the subdivision has been expanded and clarified.

Subdivision (d). This subdivision requires service of the request for a payment on account and a notice on those on the Clerk's Service List, which now includes the persons who were specifically named as parties to be served in the former service rule.

Subdivision (e). The deadline for filing an objection is shortened from 21 days to 14 days.

Subdivision (h). 2016 L.B.R. 2016-5(h), which provided that the payment on account was 80% of the unobjected to portion of the requested amount of payment on account, has been replaced by a new approach. The authorized percentage of the requested amount that may be paid on account is now the lesser of 80% of the requested compensation or 100% of the unobjected to amount of the requested compensation.

Local Rule 2083-1: Chapters 12 and 13—Form of Plan Payment

2016 L.B.R. 2083-1 authorized debtors to make 13 plan payments to the trustee by certified check or money order. The revised rule governs chapter 12 and 13 plan payments and authorizes payments by cashier's check or any other method acceptable to the trustee.

Local Rule 2090-1: Attorneys—Admission to Practice

Subdivision (a) has been revised by adding Fed. R. Civ. P. 45(f) to the list of sources of authority for an attorney to practice before the bankruptcy court. Fed. R. Civ. P. 45(f) provides that, if a motion to quash a subpoena is filed in the district where the subpoena is to be complied with, for example the District of Vermont, and the motion to quash is transferred back to the issuing Bankruptcy Court for the Eastern District of Pennsylvania, counsel who filed the motion to quash in Vermont may appear on the motion to quash on its return to Bankruptcy Court for the Eastern District of Pennsylvania.

Subdivision (b) eliminates the need for local counsel to move for the admission of an attorney *pro hac vice*. An addition to the rule requires specific details of the attorney's professional status to be included in the motion for admission *pro hac vice*. If an attorney is admitted *pro hac vice* on oral motion, the admission is for the initial appearance only and a written application must be filed thereafter.

Local Rule 2090-2: Attorneys—Discipline and Disbarment

Subdivisions (a) and (b) are the same as 2016 L.B.R. 2090-2(a) and (b).

Subdivision (c) replaces 2016 L.B.R. 2090-2(c). The new subdivision requires attorneys admitted to practice before the court to report to the Clerks of the district and bankruptcy courts if they are disciplined, suspended, or prohibited from practicing by any other state or federal court for violating professional rules of conduct, electing inactive status, or any other reason. Under paragraph 2 of this subdivision, the court, by the Chief Judge, may impose appropriate discipline other than suspension or disbarment.

Local Rule 2091-1: Limitation on Attorney Withdrawal

This rule is the same as 2016 L.B.R. 2091-1 but has been revised stylistically.

Local Rule 3002-1: Amendment Proof of Claim in Chapter 7 Case

This rule is new. It establishes the filing of the trustee's final report in a chapter 7 case as the cut-off date for the filing an amendment to a proof claim.

Local Rule 3002-2: Request for Allowance of Administrative Expense.

This rule is new. No rule of the Federal Rules of Bankruptcy Procedure governs the procedure for filing and establishing an administrative expense claim. This rule provides that an administrative expense claim is established by the filing of a motion for allowance of an administrative expense and that the court on its own motion or on motion of a party interest may set a deadline for the filing of a motion for allowance of an administrative expense claim.

The rule specifically recognizes the statutory exemption of governmental entities under §503(b)(1)(D) from the obligation to “file a request for payment of an [administrative] expense” for taxes or fines and penalties relating to taxes.

Local Rule 3002-3: Wage Claimant’s Social Security Number

This rule is new. The rule imposes a duty on a wage claimant to provide the claimant’s social security number to the trustee or other party issuing distributions in the case in order that the claimant’s wage distribution can be properly reported to the IRS.

Local Rule 3002.1-1: Failure to Respond to Trustee’s Notice of Final Cure.

This rule is new. Fed. R. Bankr. P. 3002.1(f)-(i) provides a process at the completion of the chapter 13 plan to identify and resolve any issues over the status of a chapter 13 debtor’s residential mortgage. One aspect of the process is the duty of the mortgagee under Fed. R. Bankr. P. 3002.1(g) to respond to the Notice of Final Cure from the trustee that states that the debtor has completed all plan payments due to the mortgagee. This local rule provides that if a mortgagee fails to file the required response to the Notice of Final Cure, the chapter 13 debtor’s motion seeking a remedy under Fed. R. Bankr. P. 3002.1(i) against the mortgagee is governed by L.B.R. 9014-3.

Local Rule 3007-1: Objections to Claims.

L.B.R. 3007-1 has been revised in a few material respects.

Subdivisions (a); (b); (c)(2) and (3); and (e)-(g) track 2016 L.B.R. 3007-1.

Subdivision (c)(1) is revised by adding two new provisions. First, if an exhibit or attachment to the objected to proof of claim is relevant to the objection, the objector must serve the exhibit or attachment with the objection and claim. Second, if the objector files an omnibus objection, the objector does not have to serve with the omnibus objection copies of the proofs of claim covered by the omnibus objection.

Subdivision (d) is new. It confers on the objector the right to a continuance of the scheduled hearing unless the claimant “notifies the objector in writing 7 days before the hearing date of the claimant’s intent to contest the objection.” This provision is appropriate because under Fed. R. Bankr. P. 3007, a claimant is not required to respond to an objection to the claimant’s claim. As a result, a trustee or other objector does not know whether the claimant will appear at the hearing ready to contest the legal predicate for the objection or the key facts on which the objection is based.

The failure of the claimant to file a timely statement of intent to contest the objection does not automatically result in the cancellation of the scheduled hearing. The objector has the option of requesting a continuance. A claimant who does not file a timely notice of intent to contest the objection will not know until the scheduled hearing whether the objector will request a continuance or go forward and present evidence at the hearing.

Under the rule, the claimant is served with a notice of the hearing date and a copy of the objection at least 30 days before the hearing date. The best approach for both the claimant and objector in this period is for them to confer about whether an evidentiary hearing is needed.

Local Rule 3011-1: Unclaimed Funds in Registry of Court

This rule is new. The rule provides the mechanics for obtaining an order directing the clerk to release unclaimed funds from the court's registry. The order is obtained by motion under L.B.R. 9014-2 that may be decided without a hearing. The motion must set forth certain specific information and, if a power of attorney is the basis for the entitlement to the funds, it must be submitted with the motion. The rule also states the service requirements for the motion.

Local Rule 3011-2: Undistributed Funds under a Chapter 11 Liquidating Plan.

This rule is new.

Subdivision (a) defines undistributed funds for purposes of the rule.

Subdivision (b) is the default rule, which provides that if the liquidating plan does not include a provision for disposition of undistributed funds, the disbursing agent or other party responsible for the making the distributions may file a motion seeking authority to disburse the undistributed funds to a non-religious, not-for-profit organization.

Local Rule 3015-1: Mandatory Use of Chapter 13 Form Plan.

This rule is new and it requires that a chapter 13 plan must conform to L.B.F. 3015-1. See Fed. R. Bankr. P. 3015.1

Local Rule 3015-2: Service of Chapter 12 and Chapter 13 Plans.

Subdivision (a) is a revision of 2016 L.B.R. 3015-1(b) and replaces the requirement for service of a chapter 12 or 13 plan on all priority and secured creditors with service required on all creditors and the United States Trustee as specified in Fed. R. Bankr. P. 3015(d), as amended effective December 1, 2017.

The reference to Fed. R. Bankr. P. 3012 is to the new subdivision (b) of that rule, effective December 1, 2017, that permits a chapter 12 or 13 plan to include "a request to determine the amount of a secured claim" and requires that a plan with that request "must be served on the holder of the claimaccording to Rule 7004."

Local Rule 3015-3: Chapter 12 or Chapter 13 Plans: Amendment before Confirmation

This rule, which is new, is based in part on 2016 L.B.R. 3015-2(a).

Subdivisions (a), which is new, requires that when a plan is amended before confirmation the amendment must be incorporated into an amended version of the plan that is identified with the proper numerical designation, such as the “Second Amended Plan, and, in a chapter 13 case, the amended plan must conform to L.B.F. 3015-1.

Subdivisions (b). The service requirements for an amended plan are the same as those under L.B.R. 3015-2 for the original plan.

Subdivision (c). Subdivision (c) is the same as 2016 L.B.R. 3015-2(a)(1), but adds a reference to the requirements of L.B.R. 9014-4.

Local Rule 3015-4: Chapter 12 or Chapter 13 Plan: Objection to Confirmation

This rule, which is new, is based in part on 2016 L.B.R. 3015-1(c).

Subdivision (a) is the same as 2016 L.B.R. 3015-1(c) in requiring that an objection must be filed no later than 7 days before the confirmation hearing. See also Fed. R. Bankr. P. 3015(f).

Subdivision (b) is new. An objection to a plan automatically continues over as an objection to any amended version of the plan.

Local Rule 3015-5: Chapter 12 or Chapter 13 Plan: Amendment after Confirmation

This rule, which is new, is based in part on 2016 L.B.R. 3015-2(b).

Subdivision (a), which is the same as 2016 L.B.R. 3015-2(b)(1), provides that a plan may be amended after confirmation only on motion.

Subdivision (b) requires that the motion to amend the confirmed plan must contain a summary of the terms of the confirmed plan, the proposed amendments, and the effect of the amendments on the plan distributions to each class of creditors.

Subdivision (c) requires that when the motion is served it must be accompanied by a proposed order, a copy of the amended plan, and a L.B.R. 9014-3(e) notice with a 21 day deadline for filing objections. See Fed. R. Bankr. P. 3015(h).

Subdivision (d) requires that service of the motion to amend the plan and related documents must be served on those on the Clerk’s Service List, on priority and secured creditors, and other creditors who are adversely affected by the changes to the original plan.

Subdivision (e) requires service of the L.B.R. 9014-3(e) notice on all creditors.

Local Rule 3015-6: Chapter 13 Pre-Confirmation Certification.

This rule is new.

Under §1325(a)(6), (8), and (9), a chapter 13 plan may only be confirmed if debtor has the capacity to make the plan payments; has paid all post-petition domestic support obligations; and filed federal and state tax returns. The rule requires the submission by counsel for the debtor or by an unrepresented debtor of a standard form of certification that the debtor has satisfied these 3 conditions.

Local Rule 3016-1: Chapter 11 Disclosure Statement and Plan: Disbursing Agent Proposal

This rule is similar to 2016 L.B.R. 3016-1(b), (c), and (e) except that it eliminates the requirement that the disbursing agent proposal must be considered by the court either at the hearing on approval of the disclosure statement or on confirmation of the plan. Under the revised rule, the court can schedule the hearing to meet the needs of the case. The rule provides that the disbursing agent proposal must be included in both the plan and the disclosure statement.

Local Rule 3017-1: Chapter 11 Plan: Disclosure Statement

Subdivisions (a), (b), and (c) are similar to 2016 L.B.R. 3016-1 (b), (c), and (f).

Fed. R .Bankr. P. 3017(a) requires that the plan and disclosure statement be served on the debtor, committee, Securities and Exchange Commission, and any party in interest who requests in writing a copy of the disclosure statement or plan. Subdivision (c) supplements Fed. R .Bankr. P. 3017(a) by adding that those on the Clerk's Service List also must be served and requiring that the motion for approval of the disclosure statement and the plan voting procedures be served with the plan and disclosure statement.

Subdivision (d) is new and places on the plan proponent the duty under Fed. R .Bankr. P. 3017(a) to give the notice of the hearing on the disclosure statement to all creditors.

Local Rule 3017-2: Objection to Disclosure Statement

Under this rule, the deadline for filing and serving an objection to a motion to approve the disclosure statement and voting procedures is 7 days prior to the hearing on the disclosure statement. This is the same deadline that was in 2016 L.B.R. 3016-1(g). Those on the Clerk's Service List are added to the list of those who must be served with an objection.

Local Rule 3017.1-1: Small Business Cases

This rule, which is a similar to 2016 L.B.R. 3016-1(h), specifies the parts of the L.B.R. 3016 series of local rules that apply to a small business chapter 11 case and provides that an application for conditional approval of a disclosure statement and voting procedures in a small business case as governed by L.B.R. 9013-2.

Local Rule 3017.1-2: Small Business Cases: Procedure after Conditional Approval of Disclosure Statement.

This rule is new. The rule sets out the procedures after conditional approval of a disclosure statement and voting procedures in a small business case. The procedures are similar to those in L.B.R. 3017-1(c)-(e) governing other chapter 11 cases. The plan proponent must serve the plan, the conditionally approved disclosure statement, and a notice of various deadlines on all creditors and equity security holders.

Local Rule 3021-1: Post-Confirmation Distribution Report.

This rule is a materially revised version of 2016 L.B.R. 3021-1.

The periods for reporting the distributions under the plan are changed from a monthly report for each of the first six months to quarterly reports through the quarter in which the distribution process is completed or until the case is closed.

The required content of the reports is reformulated to be the amount distributed during the reporting period and cumulatively to each class rather than the name of each recipient and the amount paid. The filing deadline for the quarterly report is moved from the 14th day after the end of a reporting period to the 20th day. The report must also include the institutions where funds are deposited, account information, and who has signatory authority over each account and the type, amount, and maturity date of investment instruments.

Local Rule 3022-1: Administrative Closure of Individual's Chapter 11 Case

This rule is new.

The rule is designed to permit efficient management of chapter 11 cases filed by individuals who have confirmed plans but who are not entitled to the entry of a discharge order until completion of all payments under the plan. See 11 U.S.C. § 1141(d)(5)(A). In such cases, except for the debtor's payment obligation under the plan, case administration may be complete and there may be no reason why the case needs to remain open pending completion of the plan. By authorizing the court to administratively close a chapter 11 case subject to later reopening without triggering a Notice of No Discharge under Fed. R. Bankr. P. 4006, the rule avoids confusing creditors into believing that they may resume prepetition collection activity while the debtor completes the payments under the plan.

Local Rule 4001-1: Motions to Use Cash Collateral and to Obtain Credit.

This rule applies to motions to use cash collateral and to obtain credit that are filed in any case under the Code. The rule replaces 2016 L.B.R. 1002-4, which applied to complex chapter 11 cases and was quite similar to subdivision (c) of this rule.

In a chapter 11 case, motions to use cash collateral and to obtain credit are often long, complicated, and scheduled for expedited hearing on short notice. The rule requires a movant to

summarize the essential terms of the motion and to disclose whether and where in the motion or transactional documents specified types of provisions are located.

Subdivision (b) is new and it imposes on the movant the duty to summarize in the motion the “essential terms” of the transaction, including whether and how adequate protection will be provided for a secured party; how cash collateral will be used; whether the lender will obtain priority over administrative expenses or over existing liens; the maximum amount the lender is committed to lend; and the loan terms including the interest rate, maturity, default events, and any limitation on the use of funds.

Subdivision (c) is a revised and expanded version of 2016 L.B.R. 1002-4. The movant must indicate in the motion whether the proposed order or the transactional documents contain specific types of provisions that are listed on the checklist of 12 numbered paragraphs. If a specific type of provision is in the proposed order or documents, the movant must provide the location of the provision.

Local Rule 4002-1: Disclosure of Compensation Paid by the Debtor to Certain Persons.

This rule is derived from 2016 L.B.R. 4002-1(a)-(d). The procedure in 2016 L.B.R. 4002-1(e) for objecting to the debtor continuing to employ officers and certain insiders has been moved to a new L.B.R. 4002-2.

Subdivision (a) of L.B.R. 4002-1 authorizes the debtor for the first 21 days after the filing of the petition to continue the employment of a person who is an “officer or director of a corporate debtor, partner of a partnership debtor, or a member, manager, or officer of a limited liability company” at or below the level of compensation and benefits that the person received 90 days prior to the filing of the case. The list of persons subject to the rule is updated to specifically cover members, managers, and officers of limited liability companies and the rule now applies to both compensation and benefits.

Subdivision (b). The deadline for filing the disclosure notice relating to a person whose employment is continued under subdivision (a) has been shortened from 45 days to 21 days after the filing of the petition and the person’s compensation and benefit information must be disclosed not just as of 90 days before the filing of the petition but also as of 180 days and one year before the filing of the petition.

Subdivision (c) complements subdivision (b) by providing that if the debtor timely files the disclosure notice under subdivision (b), the filing of an objection under L.B.R. 4002-2 to the continued employment of the person listed on the disclosure notice does not terminate or suspend the debtor’s authority to continue paying compensation and benefits to that person.

Subdivision (d) states the service requirements for the subdivision (b) notice.

Local Rule 4002-2: Objections to Compensation of Officers and Directors, Partners, or Members or Managers of the Debtor.

The objector to the debtor's continued employment of a person under L.B.R. 4002-1 must select a date for the hearing on the objection that is far enough in advance to insure the objector will be able to serve the objection, proposed order, and notice of the hearing date at least 21 days before the hearing date.

Local Rule 4003-1: Objections to Exemptions.

This rule is the same as 2016 L.B.R. 4003-1 except that the revised rule no longer requires that the objection and accompanying documents must be served 28 days before the hearing on the objection and the service list is expanded to include those on the Clerk's Service List.

Local Rule 4004-1: Deferral of Entry of Chapter 7 Discharge Order.

2016 L.B.R. 4004-1 has been divided into L.B.R. 4004-1 through L.B.R. 4004-3. L.B.R. 4004-1, which is the same as 2016 L.B.R. 4004-1(a), provides that a debtor's motion to defer entry of a discharge order is governed by L.B.R. 9014-2. The court may decide the motion without a hearing or the expiration of any specific period of time.

Local Rule 4004-2: Trustee's Final Report in Chapter 12 and Chapter 13 Case.

This rule is the same as 2016 L.B.R. 4004-1(c)(1) and (2) in directing that once the debtor completes plan payments the trustee shall promptly file a final report and the Clerk shall give notice of the filing of the report. One change is that the 21 day period to file an objection to the trustee's final report has been increased to a 30 day period. Subdivision (c) of the rule is new and provides that an objection to the trustee's final report must be served on debtor, debtor's counsel, the trustee, and those on the Clerk's Service List.

Local Rule 4004-3: Entry of Chapter 12 and Chapter 13 Discharge

Subdivision (a) is a new provision that authorizes a chapter 12 or 13 debtor who has completed all plan payments to move for entry of the discharge before the trustee files the final report. See 11 U.S.C. §1328(a).

Subdivision (b). The debtor must represent in the motion that all plan payments have been made and attach to the motion a completed L.B.F. 4004-3A, if a chapter 12 debtor, or L.B.F. 4004-3B, if a chapter 13 debtor. Each form is a certification by the debtor that the debtor is eligible for a discharge because the debtor has paid all domestic support obligations and has not claimed a state law homestead exemptions that may exceed the cap fixed under §522(p).

Rule 4004-4: Voluntary Dismissal of Adversary Proceeding Objecting to a Discharge.

This rule is new. It is important that the bankruptcy process is transparent. Accordingly, this rule requires that a withdrawal of an objection to a discharge must indicate whether there was any consideration for the withdrawal or a settlement between the debtor and the creditor.

Local Rule 5001-1: Court Administration.

This rule is a slightly edited and updated version of 2016 L.B.R. 5001-1.

Under subdivisions (a)(3) and (a)(4), during normal business hours an inquiry about the emergency judge should be directed to the Clerk of the Bankruptcy Court but, after normal hours, an inquiry about the emergency judge should be directed to Chief Security Officer for the District Court at the U.S Courthouse for the Eastern District of Pennsylvania, 601 Market Street, Philadelphia . PA 19106, who will contact the Clerk of the Bankruptcy Court.

2016 L.B.R. 5001-(b), which provided for assignment of cases to the 2 district divisions (Philadelphia and Reading) by county has been deleted. The assignment of cases is dependent upon the level of filings and resources in each division and is better addressed as an administrative matter handled by standing order rather than by local rule.

Subdivision (b) is functionally the same as 2016 L.B.R. 5001-1(c). One terminology change is that subdivision (b)(1) now refers to cases being assigned by the blind lottery method in a “multi-judge division,” instead of in the “Philadelphia Division” of the Court. Subdivision (b)(2) continues the practice of assigning a later related case to the judge who was assigned the original case.

Local Rule 5003-1: Documents Filed Under Seal.

Subdivision (a) is the same as 2016 L.B.R. 5003-1(a) in recognizing that a document may be placed under seal based on a federal statute or court order.

Subdivision (b) is new and provides that a motion to seal a document is treated as any other document and must be electronically filed. The document that is the subject of the motion may also be filed electronically but the movant may request permission to file the document in paper form.

Subdivision (c) is new. The Clerk is tasked to preclude public access to the document that is the subject of the motion to seal (whether filed electronically or in paper form). The rule further provides that if the motion to file under seal is denied, the Clerk shall remove the restriction upon public access within 14 days.

Local Rule 5003-2: Period of Time Document Remains under Seal.

Subdivision (a) is the same as 2016 L.B.R. 5003(b)(1) in recognizing that an applicable federal statute may govern how long a sealed document remains under seal.

Subdivision (b) is substantially the same as 2016 L.B.R. 5001-1(b) and applies primarily to a document placed under seal by court order. The sealed document remains under seal for 2 years after the closing of the underlying case under the Code. The former rule established a 2-period under seal but the starting date for the period was the “conclusion of the action” in which the motion to seal was filed or related.

At the end of the 2-year period the Clerk must attempt to locate the party who submitted the sealed document and its attorney and to notify them that the documents will be unsealed within 60 days unless an objection is filed. If an objection is not filed but the Clerk’s attempted communication is returned undelivered, the court will determine whether to unseal, retain the sealed status, or to make additional attempts at notifying the party or the party’s attorney.

Local Rules 5005-1 through 5005-8 are new. These local rules incorporate and improve upon the Standing Orders that have governed electronic filing since 2003.

Local Rule 5005-1: Electronic Filing Definitions.

The definitions in this rule describe and define the levels of access a person may have to the court’s CM/ECF System by applying for and obtaining a login and password from the Clerk.

- A Filing User has full access to the CM/ECF System and may file documents on behalf of a party, retrieve any documents filed in the case by others, and receive CM/ECF System notices.
- A Limited Filing User is a creditor or personal financial course provider who may file specific kinds of documents including proofs of claim, transfers and assignments of claims, requests for notices; retrieve any documents filed in the case by others; and receive CM/ECF System notices.
- A Non-Filing User may not file documents in the CM/ECF System but does receive CM/ECF System notices.

The term Authorized CM/ECF User refers to all three kinds of CM/ECF System users and the term CM/ECF Filing User refers to Filing Users and Limited Filing Users, the two CM/ECF System users who may file documents.

L.B.R. 5005-3, captioned Registration and Eligibility to Be an Authorized CM/ECF User, provides the details relating to these defined terms.

Local Rule 5005-2: Electronic Filing: General

This rule provides important parts of the foundation for the CM/ECF System.

Subdivisions (a) establishes electronic filing as the mandatory method of filing, see Fed. R. Bankr. P. 5005(a)(2), with subdivision (b) directing attention to the automatic extension of filing dates under Fed. R. Bankr. P. 9006(a)(3) if the CM/ECF System is not available.

Subdivision (c) authorizes filing in paper form by pro se individual debtors; CM/ECF Filing Users when the CM/ECF System is not available; attorneys under limited circumstances for short periods of time; and a party in interest filing a proof of claim, a transfer and assignment of a claim, or a request for notice; and documents filed under seal if permitted by the court.

Subdivision (d) coordinates electronic filing with the Federal Rules of Bankruptcy Procedure. Whenever a document is electronically filed, the CM/ECF System transmits a Notice of Electronic Filing to all CM/ECF Filing Users in the case. The Notice includes a list of recipients to whom the Notice was transmitted. Under subdivision (d) transmission of the Notice constitutes entry of the document on the docket and service of the document on all those who have consented to electronic service and are listed on the Notice as recipients.

Subdivision (e) is similar to subdivision (d) in providing that an electronically filed document is filed on the date and at the time listed on the Notice of Electronic Filing.

Subdivision (f). If a document is filed electronically before midnight prevailing Eastern time on a particular day, the document is filed on that day for the purpose of all filing deadlines.

Subdivision (g) preserves the right of any person who has not consented to electronic service pursuant to L.B.R. 5005-5, to be served with a document in paper form.

Local Rule 5005-3: Registration and Eligibility to Be an Authorized CM/ECF User.

This rule sets forth the requirement that all Authorized CM/ECF Users submit a completed registration form to the Clerk who issues the login and password. The rule also sets forth the eligibility for obtaining the various levels of access to the CM/ECF System.

Local Rule 5005-4: Payment of Filing Fees.

This rule requires a CM/ECF Filing User to pay the applicable filing fee at the time the document is electronically filed. If a CM/ECF Filing User incurs multiple filing fees on a given day, the fees may be accumulated for payment at one time but must be paid through the CM/ECF System no later than midnight of the next day.

Local Rule 5005-5: Registration as Consent to Receive Notice and Service Electronically

This rule provides additional important parts of the foundation for the CM/ECF System.

Subdivisions (a) and (b) coordinate electronic filing with the Federal Rules of Bankruptcy Procedure by providing that by registering as an CM/ECF Filing User the person waives (i) the right of personal service or service by first class mail, except the right to service of a complaint

in an adversary proceeding and (ii) the right under Fed. R. Bankr. P. 9022 to service by mail of a notice of an order or judgment.

Subdivision (c) provides that by registering as a CM/ECF Filing User the person consents to electronic service of notice and documents.

Local Rule 5005-6: Use of Login and Password.

This rule imposes on an Authorized CM/ECF Filing User the duty to protect the CM/ECF Filing User's login and password and to notify the Clerk immediately if either is compromised. An Authorized CM/ECF User who neglects this duty may be subject to sanction.

Local Rule 5005-7: Signatures

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This rule addresses the manner of and effect of signing a document in an electronic filing environment.

Subdivision (a) provides that a CM/ECF Filing User who physically signs a document may electronically file either a PDF of the signed document or a copy of the document with the notation of "s/" next to the CM/ECF Filing User's typed name. This provision is supplemented by L.B.R. 9011-1, which provides that an "authorized use of a CM/ECF Filing User's login and password to file a document...is a Filing User's electronic signature." Thus, even if the CM/ECF Filing User fails to comply with L.B.R. 5005-7(a), the CM/ECF Filing User has signed the document for the purpose of Fed. R. Bankr. P. 9011(a), and the CM/ECF Filing User's electronic signature triggers the representations set forth in Fed. R. Bankr. P. 9011(b).

Subdivision (b)(1) is the same as subdivision (a) in providing that a CM/ECF Filing User who is electronically filing a document that is physically signed by the debtor or a third party must file either a PDF copy of the physically signed document or a copy of the document with the notation of "s/" next to the typed name of the debtor or third party signer.

Subdivision (b)(2) applies to a document that is signed by the debtor or third party and is verified, certified, affirmed, or sworn under oath or penalty of perjury. For example, a petition, list, schedule, statement or amendment thereto that must under Fed. R. Bankr. P. 1008 be verified or contain an unsworn declaration under 8 U.S.C. §1746.

Paragraph (A) of subdivision (b)(2) requires that a verified document must be physically signed by the debtor or third party. A CM/ECF Filing User who electronically files a verified document that is signed by the debtor or a third party must file either a PDF copy of the physically signed document or a copy of the document with the notation of "s/" next to the typed name of the debtor or third party signer.

Paragraph (B) of subdivision (b)(2) applies when the CM/ECF Filing User electronically files a verified document with the "s/" next to the typed name of the debtor or third party signer. The CM/ECF Filing User and the CM/ECF Filing User's law firm are obligated to retain and

maintain the original signed document or a PDF copy of the of the original verified document for three years after the main case is closed.

Paragraph (C) of subdivision (b)(2) provides that if the CM/ECF Filing User electronically files a PDF of a verified document that is physically signed by the debtor or a third party, neither the CM/ECF Filing User nor the signer needs to retain the original or a PDF of the original.

Rule 5005- 8: Document Requiring Multiple Signatures.

This rule is designed to facilitate the electronic filing by a CM/ECF Filing User of a stipulation or other multi-party document that is to be binding on the CM/ECF Filing User and other parties.

Subdivision (a) governs the electronic filing of a stipulation or other document that requires the signatures of the CM/ECF Filing User and one or more other required signers who may not have physically signed the document. The rule permits electronic filing if the CM/ECF Filing User has obtained confirmation from every required signer who has not physically signed the document that the document is acceptable and that the CM/ECF Filing User is authorized to file the document. The electronically filed document must also have the notation of “s/” next to the typed name of each party who has confirmed acceptance and the conferral of authority to file the document

Subdivision (b) provides that the CM/ECF Filing User represents by filing the document electronically that those who have not actually signed the document have confirmed acceptance to the CM/ECF Filing User and authorized the CM/ECF Filing User to file the document.

Subdivision (c) provides that confirmation by a party who has not actually signed the document of their acceptance of the document and authorization to the CM/ECF Filing User to electronically file the document constitutes the signature of that party for the purpose of Fed. R. Bankr. P. 9011.

Local Rule 5011-1: Withdrawal of Reference.

This rule is the same as 2016 L.B.R. 5011-1 except that a motion to withdraw the reference of the case or any matter arising in the case other than an adversary proceeding must be served on those on the Clerk’s Service List.

Subdivisions (e) and (f) track the practice under Local Civil Rule 7.1, Motion Practice, of the United States District Court for the Eastern District of Pennsylvania by requiring that the movant file a brief and that a party opposing withdrawal of the reference file a brief and an answer or other response to the motion.

Subdivision (g) provides that the district court’s Local Civil Rule 7.1 applies to all proceedings in the district court relating to the motion for withdrawal of the reference.

Local Rule 5070-1: Calendars and Scheduling.

This rule is the same as 2016 L.B.R. 5070-1 with one exception and some stylistic changes.

Subdivision (a) continues the self-scheduling of hearings for most matters. Rather than contacting the courtroom deputy for a hearing date, the rule now requires that the movant consult the court's website.

Subdivisions (e) establishes an informal procedure of consultation among the parties; contacting the courtroom deputy for the assigned judge; and presenting for the court's approval an agreement among counsel for rescheduling.

Subdivision (f) provides that if the parties cannot agree or if an informal request to reschedule is denied by the court, a party may request rescheduling of the hearing by motion, during a telephone conference requested by the party, or by oral motion in open court made at the scheduled hearing.

Subdivision (g) provides that a party seeking an expedited hearing date must consult with other interested parties to determine if they will agree to expedited consideration and the date for an expedited hearing. If no agreement is reached, a motion governed by L.B.R. 9014-2 may be filed requesting expedited consideration. The motion for expedited consideration may be combined with the underlying motion and shall state the reasons expedited consideration is warranted; describe the party's efforts to reach agreement on expedited consideration with other interested parties, including the outcome of such efforts; and how and to whom notice of the motion was provided.

Local Rule 5070-2: Resolution of Contested Matter.

2016 L.B.R. 7041-1 applied to settlements of contested matters and adversary proceedings. These have been separated into two local rules. L.B.R. 5070-2 applies to resolution of contested matters, and L.B.R. 7041-1 applies to resolution of adversary proceedings.

Local Rule 6004-1: Motion to Sell Assets

Subdivision (a) is the same as 2016 L.B.R. 6004-1. A motion to sell assets of an estate in excess of \$2,500 is governed by L.B.R. 9014-3.

Subdivision (b), which is new, requires that a motion to sell at a private sale include a description of the material terms of the sale; a listing of any insider of the debtor who is either the buyer or a person affiliated with the buyer; and be accompanied by the sale documentation.

Subdivision (c), which is new, requires that a motion to sell at a public sale include the sale procedures and that any provision relating to credit bidding be highlighted.

Local Rule 7003-1: Adversary Proceeding Cover Sheet.

This rule is an updated version 2016 L.R.B. 7003-3 that reflects the fact electronic filing is the norm. L.B.R. 5005-2(c) specifies who may file in paper form and when.

Local Rule 7005-1: Motions in Adversary Proceedings.

Subdivision (a). This rule is a revised version of 2016 L.B.R. 7005-1. Motion practice in an adversary proceeding is basically same as the motion practice for all other matters in the case. This is accomplished by making applicable to an adversary proceeding the following local rules that govern motion practice in the case: L.B.R. 9014-2, L.B.R. 9014-4, and many of the subdivisions of L.B.R. 9014-3.

Subdivision (b) adjusts the L.B.R. 9014-3 motion practice to accommodate dispositive motions which are otherwise governed by Fed. R. Civ. P. 12(b)(6), 12(c), and 56.

Local Rule 7016-1: Pretrial Statement.

This rule is derived from 2016 L.B.R. 7016-1.

Subdivision (a) assumes the court will enter a pretrial order in the adversary proceeding that sets the time for the parties to submit a joint pretrial statement. If the court does not set a submission date, a pretrial statement is not required by the rule.

Subdivision (b) provides that if the judge sets a date for the filing of a pretrial statement but does not establish the format for the joint pre-trial statement, either through published Judicial Practices and Procedures or in a pre-trial order filed in the adversary proceeding, the parties shall prepare a joint pretrial statement that addresses the subjects set forth in subdivision (b). The list of subjects to be covered a pretrial statement is an updated version of those in 2016 L.B.R. 7016-1(b).

Local Rule 7023-1: Class Actions.

This rule, which is the same as 2016 L.B.R. 7023-1, incorporates into these local rules Local Civil Rule 23.1, Class Actions, of the United States District Court for the Eastern District of Pennsylvania.

Local Rule 7026-1: Discovery.

Subdivision (a), which is the same as 2016 L.B.R. 7026-1, incorporates into these local rules Local Civil Rule 26.1, Discovery, of the United States District Court for the Eastern District of Pennsylvania.

Subdivision (b) is similar to 2016 L.B.R. 7005-1(c) in providing that a motion to compel discovery is governed by L.B.R. 9014-2 and may be ruled on by the court without waiting for any response from the opposing party.

Local Rule 7041-1: Settlement of Adversary Proceedings.

This rule is a slightly revised version of 2016 L.B.R. 7041-2.

Subdivision (a), which is new, imposes a duty on the parties to promptly report a consensual resolution of an adversary proceeding to the judge's courtroom deputy.

Subdivision (b) establishes a 30-day deadline after reporting the resolution of the adversary proceeding for the parties to file any necessary stipulation, motion or other document that may be necessary to implement the agreed to terms of the resolution.

Subdivision (c). The reference to dismissal of the adversary proceeding if the parties do not submit the necessary documentation of the resolution within 30 days has been deleted and replaced with more general language that the court may enter an appropriate order.

Local Rule 7041-2: Notice of Involuntary Dismissal of Adversary Proceeding

This rule has been revised to make non-substantive improvements upon the language of 2016 L.B.R. 7041-2.

Local Rule 8003-1: Opinion in Support of Order

This rule is the same as former L.B.R. 8001-1(b) and 3d Cir. L.A.R. 3.1, Notice to Trial Judge; Opinion in Support of Order, in allowing the bankruptcy judge to file an opinion or supplemental opinion after a the notice of appeal is filed. Former L.B.R. 8001-1(b) allowed the bankruptcy judge 14 days to file an opinion but 3d Cir. L.A.R. 3.1 allows 30 days. This local rule allows the bankruptcy judge 30 days to file an opinion.

The trigger for the start of the filing period under former L.B.R. 8001-1(b) was the filing of the notice of appeal, but under this local rule the trigger is the docketing of the appeal. This difference is not of any practical significance. Fed. R. Bankr. P. 8003(d) directs that Clerk of the bankruptcy court on receipt of a notice of appeal shall promptly transmit the notice of appeal electronically to the Clerk of the district court for docketing of the appeal.

Local Rule 8003-2: Payment of Fees

This rule is a slightly revised version of 3d Cir. L.A.R. 3.3 Payment of Fees. Fed. R. Bankr. P. 8003(a)(3)(C) requires an appellant to pay the filing fee for an appeal to the Clerk of the bankruptcy court when the notice of appeal is filed. This rule sets forth the mechanics of the collection process if the appellant fails to tender the fee when the notice of appeal is filed.

Fed. R. Bankr. P. 8003(d) directs that Clerk of the bankruptcy court on receipt of a notice of appeal shall promptly transmit the notice of appeal electronically to the Clerk of the district court for docketing of the appeal. If the appellant fails to tender the filing fee to the Clerk of the bankruptcy court within 14 days of the docketing of the appeal, the Clerk of the bankruptcy court

must transmit to Clerk of the district court a certification that the fee has not been paid. The district court may dismiss the case or grant an extension of time to the appellant to tender the fee.

Local Rule 8003-3: Notice of Appeal in Pro Se Cases

This new rule is an adaptation to bankruptcy appeals of 3d Cir. L.A.R. 3.4, Notice of Appeal in Pro Se Cases. Under the rule, if a pro se litigant files a document that expresses an intent to file an appeal or to seek to appeal *in forma pauperis* the document constitutes a notice of appeal.

Local Rule 8005-1: Appeals Heard By District Court

This new rule emphasizes that the bankruptcy court's limited function in a bankruptcy appeal is to decide any motion to extend the 14 day period for filing the notice of appeal; collect the filing fee from the appellant; receive for filing in the bankruptcy court the notice of appeal, designation of the record, and statement of issues presented; and transmit documents to the district court.

Local Rule 8009-1: Effect of Failure to Designate Record

Subdivision (a). This new rule makes it clear that a timely notice of appeal may be dismissed if an appellant fails to file the designation of the record and statement of issues as required under Fed. R. Bankr. P. 8009(a) within 14 days of the appellant's filing of the notice of appeal. This new rule is a specific application of Fed. R. Bankr. P. 8003(a)(2), which authorizes the district court "to act as it considers appropriate, including dismissing the appeal," if an appellant fails to comply with a filing requirement.

Subdivision (b) fills a gap in the rules by specifically requiring that the Clerk of the bankruptcy court certify to the Clerk of the district court an appellant's failure to timely file a designation of the record and statement of the issues.

Local Rule 8009-2: Transcript

Subdivision (a). This new rule tracks 3d Cir. LAR 11.1, Duty of Appellant, and deals with how and when an appellant orders a transcript of some or all of the proceedings in the bankruptcy court. The rule specifies that the reporter must be given a deposit for the cost of the transcript or the appellant must request the bankruptcy court to order that the transcript be prepared at the government's expense.

Subdivision (b) adds the requirement that the appellant provide with the designation of the record and the statement of issues a copy of the completed form of Transcript Purchase Order available on the court's website or a certification of how the appellant has complied with subdivision (a).

Local Rule 8011-1: Electronic Filing and Service

Fed. R. Bankr. P. 8001(c) provides that filings in a bankruptcy appeal must be made electronically. Electronic filing of the notice of appeal and a number of other documents must be made on bankruptcy court's CM/ECF system. All other documents relating to a bankruptcy appeal must be electronically filed with the district court and under this rule those filings are governed by Local Civil Rule 5.1.2, Electronic Case Filing ("ECF") Procedures, of the United States District Court for the Eastern District of Pennsylvania.

Local Rule 8011-2: Personal Identifiers

This rule makes Local Civil Rule 5.1.3, Modifications and Redactions, of the United States District Court for Eastern District of Pennsylvania applicable to filings in a bankruptcy appeal and calls attention to need to conform to the requirements of Fed. R. Bankr. P. 9037 relating to redaction of certain information that may be contained in documents filed in a bankruptcy appeal.

Local Rule 8012-1: Disclosure of Corporate Affiliations and Financial Interest

Subdivision (a). The deadline for filing the disclosures required under this rule is 30 days after the docketing of the appeal in the district court.

Subdivision (b). Fed. R. Bankr. P. 8012 provides that a corporate party to a bankruptcy appeal must "file a statement that identifies any parent corporation and any publicly held corporation that owns 10% or more of its stock." This rule follows Third Circuit's L.A.R. 26.1.1 in requiring that the disclosure be made on a form provided by the district court.

Subdivisions (c) and (d). The Third Circuit's L.A.R. 26.1.1 materially increases the required disclosure in civil appeals from the district court to the Third Circuit. Subdivisions (c) and (d) impose similar disclosure obligations for bankruptcy appeals from a bankruptcy court to the district court.

Subdivision (c) applies to all parties to the appeal and requires that they must disclose the name of any publicly owned corporation that they know has a financial interest in the outcome of the litigation. Subdivision (d) applies only to the appellant and requires the appellant to furnish the name of the debtor, if the caption does not include the name of the debtor, and the names of the members of the committee. The appellant must also identify the active participants in the "bankruptcy court proceeding giving rise to the appeal," but not active participants in the main bankruptcy case who are not involved in the matter on appeal.

NOTE ON MOTION PRACTICE BEFORE THE DISTRICT COURT

Motion practice before the district court presiding over an appeal is governed by Fed. R. Bankr. P. 8013 and is similar to motion practice under former Fed. R. Bankr. P. 8011. But, motion practice on an appeal is different in a number of ways than motion practice before the bankruptcy court.

Fed. R. Bankr. P. 8013(f)(3)(A) and (B) impose page limits for the first time on motion practice. A motion and a response to a motion may not exceed 20 pages, exclusive of the corporate disclosure and supporting documents, and a reply to a response may not exceed 10 pages. The 20 page and 10 page limits should be sufficient for most motions in bankruptcy appeals, but may be increased for good cause on motion.

The function of the motion has been redesigned for bankruptcy appeals. A motion in an appeal to the district court is a combined motion and brief that is labeled a “motion.” As has always been the case, a motion must state “with particularity the grounds for the motion, [and] the relief sought.” Fed. R. Bankr. P. 8013(a)(2)(A) introduces the new requirement that the motion shall also contain “the legal argument necessary to support [the motion],” and Fed. R. Bankr. P. 8013(a)(2)(D)(i) prohibits the filing a brief in support of the motion. A movant is permitted to file a factual affidavit or other document with the motion.

The response to a motion must be filed within 7 days of service of the motion and the movant has 7 days from service to file a reply. Page limits are potentially significant because Rule 8013(c) provides that motions will be decided without oral argument, unless the district court schedules a hearing. Thus, the only place for the movant to advocate a legal position is a 20-page motion.

A motion for a procedural order may be decided before the 7 day response period expires. If the district court enters a procedural order before the response period expires, the adverse party has 7 days after service of the procedural order to file a motion to “reconsider, vacate, or modify” the order. Rule 8013(b) does not have a definition of what qualifies as a “procedural order” but the rule does identify motions under Rule 9006(b) and (c) for enlargement and reduction of deadlines as procedural motions.

Local Rule 8013-1: Rules Governing Motions

The district court has authority to decide an appeal from an order of the bankruptcy court and most, but not every, motion that arises in the appeal. But a few motions are reserved for decision by the bankruptcy court. For example, Fed. R. Bankr. P 8003(d) authorizes the bankruptcy court to decide a timely motion for an extension of the time to file a notice of appeal.

Subdivision (a) provides that any motion in a bankruptcy appeal that is properly filed with the district court is governed by Fed. R. Bankr. P 8013, which establishes a special motion practice for motions before the district court.

Subdivision (b) provides that any motion in a bankruptcy appeal that is properly filed with the bankruptcy court is governed by Fed. R. Bankr. P. 8013 and L.B.R. 9014-1.

Subdivision (c) requires that before a motion is filed the movant must seek consent to the motion from the parties to the appeal.

Local Rule 8013-2: Motion to Expedite Appeal

This rule is slightly modified version of 3d Cir. L.A.R. 4.1, Motions to Expedite.

Subdivision (a) sets 14 days after the docketing of the appeal in the district court as the deadline to file a motion for expedited consideration of the appeal. If after the original 14 day period expires and then new grounds for an expedited appeal later arise, the movant has 7 days from when the grounds arise to file a motion for expedited consideration.

Subdivisions (b) and (c) are coordinated to have the parties declare their preferences for an expedited briefing schedule. Unless the parties agree to a briefing schedule, subdivision (b) requires the movant to include a proposed briefing schedule in the motion. Under subdivision (c), a response to the motion must include a proposed briefing schedule and supporting reasons.

A response must be filed within 7 days of service of the motion for expedited consideration.

Local Rule 8013-3: Failure to Respond to Motion

This rule is the same as 3d Cir. L.A.R. 27.3, Uncontested Motions. The district court may grant a motion as uncontested if a party fails to file a response to a motion.

Local Rule 8014-1: Brief of the Appellant

This rule is the same as 3d Cir. L.A.R.28.1, Brief of the Appellant, except for changes to adapt the rule to the context of a bankruptcy appeal to the district court. The rule supplements Fed. R. Bankr. P. 8014(a) by requiring the appellant to specify where in the record the issues presented on appeal were raised in the bankruptcy court; the standard of review applicable to those issues; and to identify any previous appeals on the same or other issues in the case.

Local Rule 8014-2: Brief of the Appellee

This rule is the same as 3d Cir. L.A.R.28.2, Brief of the Appellee, except for changes to adapt the rule to the context of an appeal to the district court.

Subdivision (a) supplements Fed. R. Bankr. P. 8014(b) by requiring the appellee to identify any previous appeals on the same or other issues in the case and to specify the standard of review applicable to the issues presented on appeal.

Suddivision (b) applies to an appellee who is filing one brief in a consolidated appeal under Fed. R. Bankr. P. 8003(b) of two or more appellants. The appellee must provide an index listing the location of where in the appellee's brief the appellee responds to the arguments of each of the various appellants and the location of where each appellant's arguments are located in the appellants' brief.

Local Rule 8018-1: Motion for an Extension of Time to File a Brief.

Subdivision (a) is new. The subdivision emphasizes that under Fed. R. Bankr. P. 8013(b) a motion for an extension of time to file a brief is a motion for a procedural order that may be acted on by the district court without waiting for the response period to expire.

Subdivision (b) is an adaptation of two provisions of 3d Cir. L.A.R. 31.4, Motions for Extension of Time to File a Brief. The guideline for the timely filing of a motion for an extension of the time to file the brief is 3 days prior to the due date for the filing a brief and a party's first request for an extension of 14 days or less will ordinarily be granted.

Local Rule 8018-2; Appendix to Brief

Subdivisions (a) and (b) are the same as subdivision (c) of LAR 32.2, Form of Briefs and Appendices. A single or multi-volume appendix must be filed as a separate document or documents. If there is a multi-volume appendix, volume one must be attached to the appellant's brief and it must consist only of the notice of appeal; the order or judgment appealed from; and the opinion and findings of the bankruptcy court.

Subdivision (c), which deals with the use of hyperlinks as part of a citation to the appendix, is derived from 3d Cir. L.A.R 30.1, Number to be Filed, and LAR 32.2, Form of Briefs and Appendices.

Subdivision (d) tracks subdivision (c) of 3d Cir. L.A.R 30.3, Contents of Appendix, in recognizing that documents placed under seal by the bankruptcy court remain under seal when an appeal is taken from an order of the bankruptcy court to the district court.

Local Rule 9001-1: Definitions

The definitions in this rule are new.

Rule 9004-1: Documents in Paper Form.

Subdivision (a), which is new, limits the applicability of the rule to the three situations listed in L.B.R. 5005-1(b) in which paper filing is permitted.

Subdivisions (b) and (c) are the same as 2016 L.B.R. 9004-1. These subdivisions prescribe the size of documents filed in paper form and when the Clerk must date and time stamp a copy of a document filed in paper form.

Local Rule 9008-1 Publication of Notices

This rule is an edited version of 2016 L.B.R. 9008-1.

Local Rule 9010-1 Attorneys—Appearance

This rule is an updated version of 2016 L.B.R. 9010-1.

Subdivision (a) now requires that an attorney's notice of appearance include the attorney's email address.

Subdivision (c). Paragraph (1) is a slightly revised version of L.B.R. 9010-1(c) that provides that an attorney's filing of a document in the main case for a party constitutes an entry of appearance for that party for all matters in the main case. Paragraph (2) is new and provides that the filing of a document by an attorney in an adversary proceeding for a party constitutes an entry of appearance for that party only in the adversary proceeding.

Subdivision (d) requires an attorney to keep current the information the attorney has provided to the court under subdivisions (a)-(c). Under paragraph (1), an attorney who is a Filing User must electronically correct the previously supplied information. Under paragraph (2), an attorney who is not a Filing User must correct the previously supplied information by notifying the Clerk of the change.

Local Rule 9011-1: Electronic Signature

Federal Rule of Bankruptcy Procedure 5005(a)(2) authorizes a local rule that requires "documents to be ... signed ... by electronic means." This local rule, which incorporates and replaces the provision of the Standing Order governing an electronic signature, provides that a Filing User's electronic signature is the authorized use of the Filing User's login and password to file a document. L.B.R. 5005-7 and 5005-8 govern other aspects of an electronic signature.

NOTE ON APPLICATION PRACTICE

2016 L.B.R. 9013-1 governing applications has been divided into L.B.R. 9013-1 through 9013-3. Some important details of application practice have been changed but the basics of application practice under 2016 L.B.R. 9013-1, described below, have been retained.

Requests for relief that are made by application under the Federal Rules of Bankruptcy are governed by L.B.R. 9013-1 through 9013-3.

Two specific types of applications are not subject to L.B.R. 9013-1 through 9013-3. An application to approve the employment of a professional is governed exclusively by L.B.R. 2014-1 and an application for an award of compensation to a professional is governed exclusively by L.B.R. 2016-1.

Two applications may be decided immediately by the court under L.B.R. 9013-2: an application to pay filing fees in installments under Fed. R. Bank. P. 1006(b) and an application for approval of a disclosure statement in a small business case under L.B.R. 3017-1. Even though these 2 applications may be decided immediately by the court, parties in interest may file an objection to such applications.

All other applications are governed by L.B.R. 9013-3, which provides for a 7- day objection period; if no objection is filed, the applicant must file a certification of no objection;

and whether or not an objection is filed, the court may either set a hearing date or decide the matter based on the application and any response or objection.

Local Rule 9013-1: Applications: General

Subdivisions (b) and (c) are derived from 2016 L.B.R. 9013-1 (a) and (b).

Subdivision (d), which is new, requires that those on the Clerk's Service List be served with the application.

Local Rule 9013-2: Applications that May Be Decided Immediately

Subdivision (a) is derived from 2016 L.B.R. 9013-1(d). The 2 applications listed in subdivision (a) may be decided by the court with or without a hearing or waiting for any fixed period of time for the filing an objection, though an objection may still be filed by a party in interest.

Paragraph (1) of subdivision (a), which refers to a debtor's application to pay filing fees in installments, was one of four applications that could be decided immediately under 2016 L.B.R. 9013-1(d). Paragraph (2) of subdivision (a), which lists an application for conditional approval of a disclosure statement in a small business case, is new.

Local Rule 9013-3: General Application Practice

Subdivisions (a)-(f) are derived from 2016 L.B.R. 9013-3 (e).

L.B.R. 9013-1(d), which applies to applications governed by either L.B.R. 9013-2 or L.B.R. 9013-3, requires service of the application and proposed order on those on the Clerk's Service List. L.B.R. 9013-3(b) adds the requirement that those on the Clerk's Service List must also be served with a notice of the filing of the application, the relief sought, the deadline to object, and who must be served with any objection.

NOTE ON MOTION PRACTICE

Some important details of motion practice have been changed but the basics of motion practice under 2016 L.B.R. 9014-1 through 9014-3, described below, have been retained.

- This rule continues to designate the following motions as not governed by L.B.R. 9014-1 to 9014-3:
 - a motion filed in an adversary proceeding is governed exclusively by L.B.R.7005-1;
 - a motion filed in an appeal from an order of a bankruptcy judge is governed exclusively by Fed. R. Bank. P. 8013 and L.B.R. 8013-1 to 8013-3; and
 - a motion filed in a case or proceeding to withdraw the reference to the

bankruptcy court is governed exclusively by L.B.R. 5011-1.

- A motion governed by L.B.R. 9014-2 may be decided by the court with or without a hearing as the court determines and without waiting for any fixed period of time for the filing of objections. A party in interest may still file a response to a motion.
- A hearing is always scheduled for a motion governed by 9014-3. Each judge posts available hearing dates on the court's website. The movant selects a hearing date and gives notice of the hearing date and the deadline for filing a timely response or objection to the motion. The hearing is held if a response or objection is filed; but if a movant files a certification that no response or objection is timely filed, the court determines whether to hold the hearing or to cancel the hearing and decide the motion.

Local Rule 9014-1: Motions

This rule provides that motions are governed by L.B.R. 9014-1 through 9014-3 unless the motion arises in an adversary proceeding, in an appeal, or is for withdrawal of the reference of a case or proceeding to the bankruptcy court. These 3 kinds of motions are governed by the separate local rules noted above.

Local Rule 9014-2: Motions Decided Without Hearing

This rule is a slightly revised version of 2016 L.B.R. 9014-2.

Subdivision (a). Three additional motions are on the list of motions that may be decided without a hearing. These motions are listed as paragraphs

- (8) L.B.R. 3022-1 to administratively close an individual Chapter 11 case;
- (10) L.B.R. 5070-1(f) to reschedule a hearing; and
- (12) L.B.R. 7026-1(b) to compel a response to a discovery request.

Subdivision (b). In order to address the jurisdictional issues raised by *Stern v. Marshall*, 131 S. Ct. 2594 (2011), paragraph (2) of this subdivision adds to motion practice pleading a requirement similar to that imposed on a plaintiff in an adversary proceeding under Fed. R. Bankr. P. 7008. The movant must state whether the movant consents to the bankruptcy court entering a final order even if "it is determined that the court, absent consent of the parties, cannot enter final orders or judgments consistent with Article III of the United States Constitution."

Subdivision (d). 2016 L.B.R. 9014-2(c), which required service of the motion on the debtor, the trustee, and, in a chapter 11 case, the committee has been replaced by the requirement that service be made on those on the Clerk's Service List, which under L.B.R. 2002-1(a) includes the "debtor; counsel for the debtor; the trustee; counsel for the trustee; counsel for any committee; and the United States Trustee" as well as any party in interest "who [has] filed a request under Fed. R. Bankr. P. 2002(i) for all notices to be mailed to them."

Local Rule 9014-3: General Motion Practice

This rule is a slightly revised version of 2016 L.B.R. 9014-3.

Subdivision (a) provides that motions other than those listed in L.B.R. 9014-2 as motions that may be decided without a hearing are governed by this rule.

Subdivisions (b)(2) and (j) impose on a movant and any party responding to a motion a pleading requirement similar to that imposed by Fed. R. Bankr. P. 7008 and 7012 on a plaintiff and defendant in an adversary proceeding to address the jurisdictional issues raised by *Stern v. Marshall*, 131 S. Ct. 2594 (2011).

Subdivisions (c), (d) and (e) coordinate the movant's selection of an available hearing date from those posted on the court's website, the filing of the motion, and providing notice of the filing of the motion and the hearing date. First, a movant consults the court's website to find out what hearing dates are available before the judge assigned the case. Each posted hearing date also has a deadline for the movant to file any motion that will be heard on that hearing date. If the deadline passes before the motion is filed, the movant must select a later hearing date.

Subdivision (g). The 2016 L.B.R. 9014-3(g) list of those who must be served has been replaced by the requirement that service be made on those on the Clerk's Service List, which under L.B.R. 2002-1(a) includes the "debtor; counsel for the debtor; the trustee; counsel for the trustee; counsel for any committee; and the United States Trustee" as well as any party in interest "who [has] filed a request under Fed. R. Bankr. P. 2002(i) for all notices to be mailed to them."

Subdivision (g)(2), which is the same as 2016 L.B.R. 9014-3(g)(1)(v), requires the movant to serve anyone whose interest might be "directly, materially, and adversely affected if the relief requested in the motion were granted and whose interests are not adequately represented by others."

Subdivisions (h) and (i) address the deadline for filing a response or objection to a motion. Subdivision (h) continues the general rule that a party has 14 days from the date of service of the motion to file a response or objection. Subdivision (i) refers to the 4 exceptions to the 14 day period to respond or object.

Subdivision (j), which is new, imposes a pleading requirement to address the jurisdictional issues raised by *Stern v. Marshall*, 131 S. Ct. 2594 (2011). A responding party must state whether the party consents to the bankruptcy judge entering a final order.

Subdivision (k). If a response or objection is not timely filed, the movant may certify to the court that no timely response or objection has been filed and request that the court grant the relief requested in the motion without conducting a hearing. The court may either conduct or cancel the scheduled hearing.

L.B.R. 9014-4: Certification of Service.

This rule has been revised by adding as the deadline for filing a certificate of service “the earlier of 3 days after filing of the document, or, if a hearing is scheduled, before the hearing.”

L.B.R. 9014-5: Consensual Resolution of a Motion.

This rule is new and provides that L.B.R. 5070-2 governs a consensual resolution of a contested motion. L.B.R. 5070-2 requires parties to notify the court of any consensual resolution and sets a deadline for submission of any proposed settlement agreement, consent order or stipulation to be entered by the court.

Local Rule 9019-1: Arbitration

This rule has been changed to provide that designation of an eligible adversary proceeding for compulsory arbitration is within the court’s discretion. Also, by fully incorporating Local Civil Rule 53.2 of the United States District Court for the Eastern District of Pennsylvania, this rule now provides that the determination of whether the amount being sought in the adversary proceeding exceeds the \$150,000 cap on eligibility for arbitration is no longer determined solely by plaintiff’s counsel, but may be determined by the court.

Local Rule 9019-2: Mediation

This rule is derived from 2016 L.B.R. 9019-3. The mediation process has been updated and some aspects of 2016 L.B.R. 9019-3 have been clarified.

Subdivision (c). A willingness to participate in mediation training no longer satisfies one of the qualifying criteria for either an attorney or a non-attorney to be certified as a mediator. As revised, an attorney or a non-attorney must have actually completed a mediation training program.

Under paragraph (2) of subdivision (c), the non-attorney criteria to be certified as a mediator are more flexible because an experienced mediator or a person who has completed mediation training may be certified without also having 3 years of experience in bankruptcy cases or with legal or factual matters that arise in bankruptcy cases.

Subdivision (e). Paragraph (1) is the same as 2016 L.B.R. 9019-3(e), which authorized the court to appoint a certified mediator on the court’s own motion or on the request of a party. Added to subdivision (e) is the reference to the court approving a stipulation of the parties for the assignment of the matter to mediation.

Paragraph (2) of subdivision (c) specifically authorizes the parties to also stipulate to having a specific certified mediator or other qualified person appointed as the mediator and the terms for compensating the mediator.

Paragraph (3) of subdivision (c) provides that if the parties in their stipulation name a certified mediator the court “shall appoint” that person “unless special circumstances exist,” but

under paragraph (4), if the parties name a person who is not a certified mediator “the court may, but need not” appoint that person as mediator. Appointment of a mediator named in a stipulation is also contingent on the proposed mediator being willing to serve and having “preliminarily determined that he or she is not disqualified” from serving.

Subdivision (g). Paragraph (1) is derived from 2016 L.B.R. 9019-3(g) and continues to set the mediator’s committed volunteer service at preparation and 4 hours spent in one or more mediation conferences. The mediator may continue to serve as volunteer beyond the 4 hour period. The provision in 2016 L.B.R. 9019-3(g) that the mediator may give the “parties the option to pay the mediator \$150 per hour for additional time” has been eliminated and paragraph (1)(B) now provides the mediator may give the “the parties the option to pay the mediator a reasonable hourly rate for additional time spent on the mediation.” If the parties accept, the resulting agreement to pay the mediator for additional time spent does not require the court’s approval.

Under paragraph (2) of subdivision (g), the parties to a mediation may agree with a mediator on the terms for compensating the mediator. The agreement may be included as part of a stipulation for mediation by a selected mediator, or, if the mediator is already appointed, as a stand-alone stipulation for approval of the terms for compensating the mediator.

Once the terms of the compensation agreement are in place under subdivision (g)(1) or approved under subdivision (g)(2), the mediator will, at some point, render a bill. Paragraph (3) provides that if the mediator will be paid by the estate, the court must approve the amount of the payment if the estate’s payment will exceed \$3,000 in a chapter 7 case, \$5,000 in a chapter 11 case, or the estate’s representative objects to the amount sought from the estate.

Subdivision (i). Paragraph (1), governing disqualification of a mediator, is the same as 2016 L.B.R. 9019-3(g), and paragraph (2), protecting a law firm or employer from being automatically disqualified from representing a party in the bankruptcy case because a member of the firm or employee has or is serving as a mediator in the case, is the same as 2013 L.B.R. 9019-3(h).

Subdivision (k). 2016 L.R.B. 9019-3(h) and (k) are reorganized and elaborated on in subdivision (k).

Paragraph (1) of subdivision (k) states the general point that all information obtained by the mediator is confidential and may not be divulged without the consent of the party who disclosed the information. Paragraph (2) states the complementary point that the written and oral communications that take place during the mediation process are confidential and privileged and may not be disclosed to third parties.

Paragraph (3) of subdivision (k) makes it explicit that documents exchanged in the mediation must not be filed in the case.

Paragraphs (4)-(6) of subdivision (k) cover the principle that the mediation confidentiality does not override the legal status of documents or information would otherwise have if there had not been a mediation. A document or information that is discoverable,

privileged, or admissible in evidence in the case is not rendered non-discoverable, no longer privileged, or inadmissible if a party uses the document or information in mediation.

Subdivision (l) is a variation on 2016 L.B.R. 9014-3(l), which provided that “on the mediator’s request ... the court may direct” or invite other parties to participate in the mediation. The revised rule gives the mediator authority “to direct or invite” other parties to participate in the mediation if the parties to the mediation consent.

Subdivision (m), like 2016 L.B.R. 9013-3(j), assigns to the mediator the task of giving the parties 14 days’ notice of the date and time of an initial mediation conference that should be held within 30 days of the mediator being notified of the appointment as mediator. The mediator may grant a continuance to a date that is within 60 days of the mediator being notified of the appointment if fairness or exceptional circumstances justifies the granting of the continuance.

Under 2016 L.B.R. 9013-3(j)(2), the mediation was held in the courthouse unless the mediator determined “that it is in the interest of the mediator and the parties” to meet in another location. Paragraph (4) substitutes the new rule that the mediation shall be held where the mediator and parties mutually agree. If they do not agree, mediation is held in the courthouse.

Subdivision (n). This lengthy subdivision is the same as 2016 L.B.R. 9019-3(k) except for 2 changes.

2016 L.B.R. 9019-3(k)(1) provided that a trial or hearing scheduled before the court was not continued because of an assignment to mediation unless the court ordered a continuance and the parties consented to the continuance. Consent of the parties is eliminated under the revised subdivision (n)(1), which now provides that a trial or hearing before the court “will not be continued to accommodate a mediation unless the court otherwise orders.”

Subdivision (n)(2)(A) is revised by eliminating the requirement that a mediation memorandum be served on the other parties in addition to the mediator. Subdivision (n)(2)(B) goes the next step and provides that unless a party consents the mediator may not direct that party to provide the party’s memorandum to anyone else.

Local Rule 9032: Effect of Amendment of Local Rules of Civil Procedure

This rule is new. The format of the rule tracks the format of Fed. R. Bankr. P. 9032. If the district court amends a local rule that is incorporated by a local bankruptcy rule, the amended version of the district court’s local rule is automatically incorporated into the local bankruptcy rules.

Local Rule 9076-1: Telephone and Video Conferences and Hearings

This rule is an edited version of 2016 L.B.R. 9076-1(b)