
Local Rules
United States Bankruptcy Court
Middle District of Alabama



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Rule 1001-1 Scope

These rules govern procedures in the United States Bankruptcy Court for the Middle District of Alabama. They shall be cited as the Local Rules of the United States Bankruptcy Court for the Middle District of Alabama, or LBR #____, Bankr. M.D. Ala., and shall not be construed in a manner that is inconsistent with the Federal Rules of Bankruptcy Procedure. These rules shall become effective on July 1, 2008.

Rule 1002-1 Commencement of Case

- (a) A case is commenced by filing with the clerk:
 - (1) a petition using the appropriate Official Form;
 - (2) a mailing matrix in a format prescribed by the clerk; and
 - (3) a filing fee, paid in full in accordance with LBR #1006-1, Bankr. M.D. Ala. or with the first installment with a motion to pay the filing fee in installments in accordance with LBR #1006-1, Bankr. M.D. Ala.
- (b) Petitions filed by lawyers who are registered CM/ECF participants shall be accompanied by Local Form 1.
- (c) Petitions filed by persons who are not registered CM/ECF participants shall be accompanied by Official Form 121, Your Statement About Your Social Security Numbers, which the clerk will keep in a nonpublic file.

Rule 1005-1 Caption of Petition

- (a) Petitions and other papers filed with the court, except Official Form 121, shall identify the debtor by the last four digits of the debtor's social security number or employer identification number. The remainder of the digits shall be redacted.
- (b) If the debtor's residential mailing address and county of residence are different from the debtor's stated mailing address, or if the mailing address is a post office box, the debtor's residential address and the name of his county shall be stated in Official Forms 101 and 201, for voluntary petitions, or in Official Form 105 or 205, for involuntary petitions, which initiate a case under the Bankruptcy Code.

Rule 1006-1 Payment of Filing Fee

(a) Every petition filed shall be accompanied by a filing fee in the amount prescribed by law.

Any petition not accompanied by a filing fee paid in full is subject to the installment payment provisions of paragraph (d) below.

(b) Lawyers who are registered CM/ECF participants must pay by credit card or debit card in a manner prescribed by the clerk.

(c) Filers who are not registered CM/ECF participants must pay by certified check or money order.

(d) Petitions not accompanied by the full filing fee may pay the filing fee as follows:

(1) File Official Form 103A, Application for Individuals to Pay the Filing Fee in Installments.

(2) The number of installments shall not exceed four, and the final installment is due no later than 120 days from the date the petition is filed. Installments are due at least every 30 days.

(3) No installment shall be less than \$50.00, unless a lesser amount will pay the filing fee in full.

(4) Motions filed in accordance with this provision are deemed granted unless a party in interest objects or the court rules otherwise.

(e) Dismissal of a petition prior to payment of the full filing fee does not abate the unpaid portion of the filing fee.

(f) The clerk is not required to accept petitions that do not comply with this rule.

(g) Petitions accepted by the clerk that do not comply with this rule, or petitions filed in cases where payment is not honored, may be dismissed upon 36 hours written notice given by the clerk.

(h) In a chapter 13 case where the filing fee will be paid in installments, the initial installment must be paid to the clerk when filing the petition. Future installments may be paid directly to the clerk or through the chapter 13 plan. If installments are to be paid through the chapter 13 plan, the plan payments must be sufficient to pay all installments in full within the 120-day period as set out above. The chapter 13 plan shall list the amount of the initial installment paid directly to the clerk and the balance due to be paid through the debtor's plan payments.

Rule 1007-1 Lists, Schedules, and Statements; Time Limits

(a) Individual debtors required to file a certification concerning exemptions under § 522(q) of the Code shall do one of the following:

(1) In chapter 12 and 13 cases, the certification shall be included in the motion for discharge under §§ 1228 and 1328 of the Code, and LBR #4004-1, Bankr. M.D. Ala.

(2) In chapter 11 individual cases, the certification shall be filed prior to the filing of a Plan and Disclosure Statement using Local Form 4.

Rule 1007-I Lists, Schedules, Statements, and Other Documents; Time Limits; Expiration of Temporary Means Testing Exclusion

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(b) Schedules, Statements, and Other Documents Required.

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(4) Unless either: (A) § 707(b)(2)(D)(i) applies, or (B) § 707(b)(2)(D)(ii) applies and the exclusion from means testing granted therein extends beyond the period specified by Rule 1017(e), an individual debtor in a chapter 7 case shall file a statement of current monthly income prepared as prescribed by the appropriate Official Form, and, if the current monthly income exceeds the median family income for the applicable state and household size, the information, including calculations, required by § 707(b), prepared as prescribed by the appropriate Official Form.

(c) **Time Limits.** In a voluntary case, the schedules, statements, and other documents required by subdivision (b)(1), (4), (5), and (6) shall be filed with the petition or within 14 days thereafter, except as otherwise provided in subdivisions (d), (e), (f), (h) and (n) of this rule. In an involuntary case, the list in subdivision (a)(2), and the schedules, statements, and other documents required by subdivision (b)(1) shall be filed by the debtor within 14 days of the entry of the order for relief. In a voluntary case, the documents required by paragraphs (A), (C), and (D) of subdivision (b)(3) shall be filed with the petition. Unless the court orders otherwise, a debtor who has filed a statement under subdivision (b)(3)(B), shall file the documents required by subdivision (b)(3)(A) within 14 days of the order for relief. In a chapter 7 case, the debtor shall file the statement required by subdivision (b)(7) within 45 days after the first date set for the meeting of creditors under § 341 of the Code, and in a chapter 11 or 13 case no later than the date when the last payment was made by the debtor as required by the plan or the filing of a motion for a discharge under § 1141(d)(5)(B) or § 1328(b) of the Code. The court may, at any time and in its discretion, enlarge the time to file the statement required by subdivision (b)(7). The debtor shall file the statement required by subdivision (b)(8) no earlier than the date of the last payment made under the plan or the date of the filing of a motion for a discharge under §§ 1141(d)(5)(B), 1228(b), or 1328(b) of the Code. Lists, schedules, statements, and other documents filed prior to the conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise. Except as provided in § 1116(3), any extension of time to file schedules, statements, and other documents required under this rule may be granted only on motion for cause shown and on notice to the United States Trustee, any

committee elected under § 705 or appointed under § 1102 of the Code, trustee, examiner, or other party as the court may direct. Notice of an extension shall be given to the United States trustee and to any committee, trustee, or other party as the court may direct.

* * * * *

(n) Time Limits for, and Notice to, Debtors Temporarily Excluded from Means Testing.

(1) An individual debtor who is temporarily excluded from means testing pursuant to § 707(b)(2)(D)(ii) of the Code shall file any statement and calculations required by subdivision (b)(4)

no later than 14 days after the expiration of the temporary exclusion if the expiration occurs within the time specified by Rule 1017(e) for filing a motion pursuant to § 707(b)(2).

(2) If the temporary exclusion from means testing under § 707(b)(2)(D)(ii) terminates due to the circumstances specified in subdivision (n)(1), and if the debtor has not previously filed a statement and calculations required by subdivision (b)(4), the clerk shall promptly notify the debtor that the required statement and calculations must be filed within the time specified in subdivision (n)(1).

COMMITTEE NOTE

This rule is amended to take account of the enactment of the National Guard and Reservists Debt Relief Act of 2008, which amended § 707(b)(2)(D) of the Code to provide a temporary exclusion from the application of the means test for certain members of the National Guard and reserve components of the Armed Forces. This exclusion applies to qualifying debtors while they remain on active duty or are performing a homeland defense activity, and for a period of 540 days thereafter. For some debtors initially covered by the exclusion, the protection from means testing will expire while their chapter 7 cases are pending, and at a point when a timely motion to dismiss under § 707(b)(2) can still be filed. Under the amended rule, these debtors are required to file the statement and calculations required by subdivision (b)(4) no later than 14 days after the expiration of their exclusion.

Subdivisions (b)(4) and (c) are amended to relieve debtors qualifying for an exclusion under § 707(b)(2)(D)(ii) from the obligation to file a statement of current monthly income and required calculations within the time period specified in subdivision (c).

Subdivision (n)(1) is added to specify the time for filing of the information required by subdivision (b)(4) by a debtor who initially qualifies for the means test exclusion under § 707(b)(2)(D)(ii), but whose exclusion expires during the time that a motion to dismiss under § 707(b)(2) may still be made under Rule 1017(e). If, upon the expiration of the temporary exclusion, a debtor has not already filed the required statement and calculations, subdivision (n)(2) directs the clerk to provide prompt notice to the debtor of the time for filing as set forth in subdivision (n)(1).

Rule 1009-1 Amendments of Petitions, Lists, Schedules and Statements

- (a) Amendments to petitions, lists, schedules, and statements may be filed at any time permitted by law and shall be served upon the trustee and any party affected by the amendment. Amendments to schedules in cases under chapter 11 cases shall be served upon the bankruptcy administrator and any party affected by the amendment.
- (b) Amendments to Schedule C shall be served upon all interested parties.
- (c) If a debtor adds a creditor through amending the schedules, any amended schedule shall be served upon the creditor with a copy of the notice of commencement of the case. The debtor shall file an amended mailing matrix with any amended schedule.
- (d) If Schedules D or E/F are amended only to add a creditor, the amended schedule should list only the added creditor. A complete amended schedule should not be filed unless a creditor is to be deleted from a schedule.
- (e) Amended schedules shall be filed using the appropriate official form, and shall be signed and verified by the debtor as required by Rule 1008, Federal Rules of Bankruptcy Procedure.
- (f) Proof of service shall be attached to any amended paper filed with the court under this rule.

Rule 1017-1 Dismissal

- (a) The clerk, trustee, or bankruptcy administrator may serve notice of dismissal in accordance with this rule. Where a notice of dismissal is served pursuant to this rule, and no response is filed within 21 days of service of the notice, a case may be dismissed by the court without further notice or hearing. Notices under this rule shall be served upon each debtor and their attorney of record, if any.
- (b) The clerk may serve a notice of dismissal under this rule for:
- (1) failure to file any schedule or statement within the time allowed by law or order of this court, or
 - (2) a default in the payment of an installment payment under LBR #1006-1, Bankr. M.D. Ala.
- (c) The trustee or bankruptcy administrator in chapter 7 cases may serve a notice of dismissal for:
- (1) failure of the debtor to appear at a § 341 meeting of creditors;
 - (2) failure to serve notice or file proof of service of a notice in accordance with LBR #2003-1(b), Bankr. M.D. Ala.;
 - (3) failure to timely file answers to interrogatories, if permitted under LBR #2003-1(e), Bankr. M.D. Ala.;
 - (4) failure of the debtor to provide a tax return pursuant to § 521(e)(2)(A) of the Code; or
 - (5) failure of the debtor to obtain prepetition credit counseling in accordance with §§ 109(h)(1) and 521(b) of the Code.
- (d) The trustee or bankruptcy administrator in chapter 12 or 13 cases may serve a notice of dismissal for:

- (1) failure of the debtor to appear at a § 341 meeting of creditors;
- (2) a material default in payments under a confirmed plan;
- (3) failure to timely commence payments pursuant to 11 U.S.C. § 1326(a)(1);
- (4) death of the debtor;
- (5) failure of the debtor to pay any domestic support obligation pursuant to §§ 1307(c)(11) and 1208(c)(1);
- (6) failure of the debtor to provide a tax return pursuant to § 521(e)(2)(A), or to file a tax return with the appropriate taxing authority pursuant to § 1307(e); or
- (7) failure of the debtor to obtain prepetition credit counseling pursuant to §§ 109(h)(1) and 521(b).

(e) The bankruptcy administrator in chapter 11 cases may serve a notice of dismissal for:

- (1) failure to appear at a § 341 meeting of creditors;
- (2) failure to file reports as required by LBR #2015-1, Bankr. M.D. Ala.;
- (3) failure to appear at a conference scheduled pursuant to LBR #2015-1, Bankr. M.D. Ala.; or
- (4) failure to obtain prepetition credit counseling pursuant to §§ 109(h)(1) and 521(b), in individual debtor cases.

(f) Notices served under this rule shall contain the following legend on the first page:

PURSUANT TO LBR #1017-1, BANKR. M.D. ALA., THIS CASE MAY BE DISMISSED WITHOUT FURTHER NOTICE OR HEARING, UNLESS A RESPONSE IS FILED AND SERVED UPON THE PARTY SERVING THIS NOTICE WITHIN 21 DAYS OF THE DATE OF SERVICE.

Rule 2003-1 Meetings of Creditors Continuances and Appearances

- (a) Meetings of creditors may be continued only upon a showing of good cause.
- (b) In chapter 7 or 13 cases, debtors seeking to continue a meeting of creditors shall first contact the trustee and attempt to resolve the matter informally. If the trustee consents, the meeting of creditors shall be continued, upon two conditions:
 - (1) The bar date for complaints pursuant to Rule 4004(a), Federal Rules of Bankruptcy Procedure, is extended to 60 days after the first date set for the meeting of creditors;
 - (2) Debtor's counsel shall mail notice of the continued meeting of creditors and notice of the extended complaint deadline to all interested parties on Local Form 2, and file proof of service no later than 14 days after the date of the initial setting of the § 341 meeting of creditors.
- (c) In chapter 11 cases, a continuance shall be sought through the bankruptcy administrator.
- (d) A motion to continue a meeting of creditors shall not be filed with the court unless the debtor or counsel has first tried to resolve the matter informally. Any motion filed under this provision shall make note of the attempts made to resolve the matter.
- (e) In cases of emergency, a debtor may be excused from personally appearing at a § 341 meeting of creditors, upon filing a properly supported motion. Motions for excuse due to the physical or mental condition of the debtor shall be supported by a statement from the debtor's physician. Motions for excuse due to the inability of the debtor to appear because of military deployment shall be supported by copies of the deployment orders. Motions for excuse due to a debtor's incarceration shall be supported by copies of a judgment and conviction, or other process of the court which has ordered the

incarceration. Inconvenience to the debtor is not a sufficient basis to excuse the debtor's appearance.

- (f) If a debtor has been excused from appearing, the debtor shall file completed interrogatories on a form given by the trustee or bankruptcy administrator, and shall promptly respond to any reasonable follow-up questions, unless the debtor is physically unable to execute the same, no later than 14 days after the date of the order excusing the debtor's personal appearance.
- (b) Where the debtor's physical appearance has been excused by the court and the § 341 meeting of creditors is to be completed by telephone, the debtor shall arrange with the trustee for the telephonic meeting and give notice of the telephone hearing to all creditors.

Rule 2004-1 Examination

- (a) No party in interest shall file a notice of examination pursuant to Rule 2004, Federal Rules of Bankruptcy Procedure, prior to attempting to confer with the person to be examined or his attorney, if represented by counsel. If the parties are in agreement, the examining party shall file a notice of examination, identifying the person to be examined and setting the time and place for examination.
- (b) If the examining party cannot reach an agreement, a notice of examination shall be served upon the person to be examined and his counsel, if any, the bankruptcy administrator, and the trustee, if any, in accordance with Rule 7004, Federal Rules of Bankruptcy Procedure. The notice of examination shall identify the person to be examined, the date and place of examination. The examining party shall note the efforts made to reach the agreement. The examination shall not be scheduled for a date less than 30 days prior to the date of service.
- (c) The examining party may request the examinee to bring books, documents, or other tangible items in his custody or control.
- (d) The examinee or any interested party may file an objection to the notice of examination no more than 21 days after service.
- (e) The notice of examination shall contain the following legend in those cases where an agreement has not been reached:

THE PERSON TO BE EXAMINED SHALL APPEAR AT THE TIME AND PLACE SET FORTH HEREIN AND MAKE HIMSELF AVAILABLE FOR EXAMINATION UNLESS HE HAS FILED AN OBJECTION NOT MORE THAN 21 DAYS AFTER SERVICE.

**FAILURE TO APPEAR OR TIMELY OBJECT MAY BE PUNISHED AS A CONTEMPT
OF COURT.**

Rule 2015-1 Duty to Keep Records, Make Reports—Debtors in Possession

(a) In chapter 11 cases, debtors in possession shall:

- (1) File regular reports as required by the bankruptcy administrator;
- (2) Appear for conferences and produce documents or other evidence as the bankruptcy administrator requires;
- (3) Cooperate with the bankruptcy administrator;
- (4) Produce such information about the debtor's operation as may be reasonably requested by an interested party.
- (5) File quarterly fee statements as requested by the bankruptcy administrator. These statements shall be filed with the clerk along with the payment of appropriate quarterly fees as required by 28 U.S.C. § 1930(a)(6). Such statements and fees are due no later than the last day of the month following the end of the calendar quarter for which they are incurred. Payments must be mailed to ensure they are received by the due date and must be made payable to the U. S. Bankruptcy Court. All plans of reorganization must provide for the payment of quarterly fees until the case is closed, dismissed, or converted.
- (6) Within 14 days of the filing date, provide the bankruptcy administrator with copies of the declaration pages for all of his insurance policies. At all times, the debtor must maintain adequate hazard and liability insurance on all of his property, as well as any other insurance required by applicable law or court order (i.e., workman's compensation insurance). The debtor must notify the bankruptcy administrator within two business days of receipt of written notice of any changes in the terms of the insurance policies, including cancellation or non-renewal.

- (7) Tax Returns. In cases involving individual chapter 11 debtors, the debtor shall provide copies of his most recently filed tax returns to the bankruptcy administrator and trustee, if one has been appointed.
- (8) Bank Accounts. The debtor's prepetition bank accounts should be closed, and new postpetition bank accounts should be opened as of the petition filing date. At a minimum, the debtor will maintain a general or operating account and a tax deposit account. The signature cards and checks for the new accounts shall clearly indicate that the debtor is a chapter 11 debtor in possession. The debtor shall only use federally insured banking institutions and shall immediately inform the bankruptcy administrator if the total deposits in any one bank at any time exceed the FDIC coverage of \$100,000. Upon notification, the bankruptcy administrator shall ensure that collateral or bonds are posted to secure amounts in excess of FDIC coverage.
- (9) Books, records, and inspections. The debtor shall close his prepetition books and records, and open new books and records as of the petition filing date. The debtor shall permit the bankruptcy administrator, or designee, reasonable inspection of his business premises, properties, books and records.
- (10) Taxes. The debtor shall segregate and hold in the tax deposit account established under paragraph (8) all taxes deducted and withheld from employees and monies collected under any law of the United States, or any state or subdivision thereof. The debtor shall timely pay all post-petition taxes. Evidence of tax payments shall be included in the monthly financial report for the period paid. The debtor

shall file all delinquent tax returns within 90 days of the filing date. The debtor shall timely file all post-petition returns.

(b) Counsel for debtors in possession shall account for all amounts paid or held as a retainer, and shall account for the same as the bankruptcy administrator may require.

(c) The debtor in possession shall file monthly reports of operation, with service limited to the bankruptcy administrator and all parties in interest who make a request in writing.

Bank account statements and account numbers shall be served on the bankruptcy administrator and all parties in interest who make a request in writing, but should not be filed with the court.

Rule 2016-1 Compensation for Services Rendered and Reimbursement of Expense

(a) At times, the court may require a presumptive fee for to attorneys who represent debtors in chapter 13 cases. Attorneys who request fees that do not exceed the presumptive fee should not file an application under Rule 2016, Federal Rules of Bankruptcy Procedure.

(1) If an attorney elects to file an application for attorney's fees in excess of the presumptive amount, the application should specify all services performed from the beginning of representation.

(2) The debtor, the trustee, or any interested party may object to the allowance of the presumptive fee in any case.

(3) Upon motion by the chapter 13 trustee, the bankruptcy administrator, the debtor or the court, the court may reduce the amount of the attorney's fees allowed in any chapter 13 case, on notice to the attorney for the debtor, for cause, notwithstanding any provision in any standing order for a presumptive fee.

(b) If a professional, whose compensation is subject to approval under 11 U.S.C. § 330, has accepted a retainer from any source for future services in a bankruptcy case in this court, the professional must obtain court approval before making any draw against the retained funds.

Rule 2090-1 Attorneys Admission to Practice

- (a) The bar of this court shall consist of all members of the bar of the United States District Court for the Middle District of Alabama. Local Rule 83.1 of the United States District Court for the Middle District of Alabama is incorporated herein by reference.
- (b) Representation Required. All partnerships, corporations, limited liability companies, trusts, associations, and other business entities that appear in cases or proceedings before this court, not including the § 341 meeting of creditors or filing proofs of claim, must be represented by a lawyer duly admitted to practice before this court. An appearance shall include preparing and filing papers, such as complaints and answers, petitions, applications and motions; questioning witnesses in proceedings before the court; and pursuing any action in this court.

Exception: A business entity employed as a professional pursuant to 11 U.S.C. § 327 may file an interim or final fee application pro se.

Rule 3002-1 Claims for Mortgages on Residential Real Property

(a) In chapter 13 cases, regarding the holder of a mortgage secured by residential real property:

- (1) The creditor does not need to file a proof of claim for the contractual monthly payments (i.e. those payments which have not come due as of the date of the petition), in those instances where the debtor's plan proposes to make those payments directly to the mortgage holder.
- (2) The creditor shall file a proof of claim for the contractual monthly payments when the debtor's plan proposes to maintain the payments through payments to the chapter 13 trustee. The proof of claim should include the amount of the contractual monthly payment and escrow amount. If during the pendency of the plan, the contractual monthly payment changes due to a change in interest rates or escrow amounts, the creditor shall either amend its claim or file a notice advising the debtor and the trustee of the change.
- (3) Claims for mortgage delinquencies (i.e. those payments due prior to the petition filing date but have not been paid as of the petition filing date) accruing prior to the petition filing date shall be filed in accordance with Rule 3002, Federal Rules of Bankruptcy Procedure, and shall be calculated separately from the amount due for post-petition monthly payments.

Rule 3002-2 Electronic Filing of Claims

Any entity that files more than 25 proofs of claim, amendments to proofs of claim, or transfers of claim in any calendar year shall file electronically on the court's CM/ECF system.

Rule 3007-1 Objection to Claims

- (a) Objections to claims shall state their specific grounds and the relief sought.
- (b) If the objection goes to the substance of the bankruptcy, and is not a matter of form or procedure, the objection shall be supported by a declaration or affidavit describing the factual basis for the objection. If the objecting party is unable to secure a declaration or affidavit, the objection shall explain why and shall provide a statement, regarding the factual basis of the objection.
- (c) Objections to claims shall contain a negative notice legend on the first page like the following:

**PURSUANT TO LBR #3007-1, BANKR. M.D. ALA., THE COURT WILL TAKE
THIS OBJECTION UNDER ADVISEMENT AND RULE, WITHOUT FURTHER
NOTICE OR HEARING, UNLESS THE CLAIMANT FILES WITH THE COURT,
WITH SERVICE UPON THE OBJECTING PARTY, A RESPONSE WITHIN 30
DAYS OF THE DATE OF SERVICE OF THIS OBJECTION.**

- (d) Objections to claims which fail to comply substantially with this rule are subject to dismissal, without prejudice, and without further notice or hearing.

Rule 3015-1 Chapter 13 Plans and Amended Chapter 13 Plans

- (a) Chapter 13 plans shall conform closely to Local Form 3.
- (b) A chapter 13 plan shall be filed with the petition if reasonable, but no later than 14 days after the petition filing date, unless the court approves an extension of time. If a chapter 13 plan is not filed with the petition, the debtor shall serve copies upon all interested parties and attach proof of service to any plan filed at a time other than the petition filing date.
- (c) Amended chapter 13 plans filed prior to confirmation of the initial plan shall be served upon the chapter 13 trustee and any party in interest who is affected by the amendment.
- (d) Motions to modify confirmed chapter 13 plans shall be made pursuant to the negative notice provisions of LBR #9007-1, Bankr. M.D. Ala. A motion to modify a confirmed plan shall be served by the moving party upon all parties in interest with a copy of the amended plan. The motion will be taken under advisement and may be granted without further notice or hearing, unless an interested party timely objects or requests that a § 341 meeting of creditors be scheduled.
- (e) Amended or modified chapter 13 plans shall indicate any provision changed from the prior plan by underscoring the amended provision. All amended or modified plans shall indicate the date of the amendment on its first page.
- (f) Adequate Protection Payments
 - (1) Unless the plan provides otherwise, the trustee is authorized to make the payments required by 11 U.S.C. § 1326(a)(1) pending confirmation of the plan. Subject to objection by an interested party, the payments shall be in the amount specified by the plan.

- (2) After confirmation, the trustee is authorized to make adequate protection payments to all holders of allowed secured claims in the amounts specified by the plan.
- (3) When the fee to the debtor's attorney has been paid in full, the trustee is authorized to begin making the specified monthly payment to secured creditors as provided by the confirmed chapter 13 plan.
- (4) This provision for the payment of adequate protection payments shall be effective for cases filed on or after January 1, 2007.

Rule 3015-2 Objections to Confirmation of Chapter 13 Plans

- (a) Objections to confirmation of chapter 13 plans shall be filed in writing no less than 7 days before the hearing date on the confirmation of the plan. Copies of the objection shall be served on the debtor, counsel for the debtor, and the chapter 13 trustee. Objections shall specifically state their grounds.
- (b) Objections to motions to modify chapter 13 plans after confirmation shall be filed no later than 21 days after service of the motion to modify. Copies shall be served on the debtor, counsel for the debtor, and the chapter 13 trustee.
- (c) Objections that do not state legally sufficient grounds for objecting may be overruled without further notice or hearing.

Rule 3015-3 Confirmation Hearings

(a) The court may dismiss a chapter 13 case at any scheduled hearing on confirmation of a chapter 13 plan for:

- (1) a material default in payments under the plan;
- (2) a material default in any installment payment due pursuant to LBR #1006-1(d),
Bankr. M.D. Ala.;
- (3) the debtor's failure to appear at a § 341 meeting of creditors;
- (4) the debtor's failure to file any schedule or statement required by law; or
- (5) the debtor's failure to amend schedules, statements, or plans requested by the
trustee.

Rule 3015-4 Effect of Confirmation

- (a) Confirmation of the debtor's chapter 13 plan shall not limit the amount to be paid to a creditor to maintain the contractual monthly payments through the plan.
- (b) The amount of debt or amount of arrearage listed by the debtor in the chapter 13 plan is solely an estimate, and confirmation of the plan will not have a binding effect on these amounts. The allowed claim will control the amount of debt or the amount of arrearage.
- (c) The value of collateral listed by the debtor in the chapter 13 plan will supersede a different value listed in the claim filed by the creditor unless the creditor objects. The creditor may raise this objection before confirmation of the plan.

Rule 3015-5 Excusal of Payments

If the debtor is in need of a temporary excusal of chapter 12 or 13 payments, he shall submit a request in writing to the chapter 12 or 13 trustee for a temporary excusal of his payments. If the trustee denies the debtor's request for a temporary excusal of payments, and the debtor desires to continue with the request, the debtor may file a motion to excuse payments due under the plan. A trustee's approval of the request or a court order granting the motion to excuse the plan payments will excuse the payments only for the period of time covered by the request or motion. The granting of a request or motion to excuse plan payments will not prevent a creditor in the case from filing a motion for relief from stay pursuant to Rule 4001-1.

Rule 3018-1 Filing Acceptances and Rejections

Unless otherwise ordered by the court, ballots accepting or rejecting a chapter 11 plan shall be filed with the clerk. The ballot form distributed to creditors shall specify the address at which the ballot shall be filed.

Rule 4001-1 Relief from Automatic Stay

(a) Motion Requirements

(1) All motions for relief from the automatic stay shall specifically state why relief is being requested.

(2) The moving party shall attach legible copies of any documents that support its claim that it has an interest in the debtor's property. Mortgages on real property shall show the recording information. If there are many supporting documents, only the first and last page should be attached to the motion and filed with the court. A full copy shall be served on any interested party who makes a request.

(b) Motions for relief from the automatic stay in chapter 7 cases shall contain the following legend on the first page of the motion:

PURSUANT TO LBR #4001-1, BANKR. M.D. ALA., THE MOVING PARTY SEEKS RELIEF FROM THE AUTOMATIC STAY. UNLESS A RESPONSE IS FILED WITH THE COURT, AND SERVED UPON THE MOVING PARTY 21 DAYS FROM THE DATE OF SERVICE OF THIS MOTION, THE MOTION MAY BE GRANTED BY THE COURT WITHOUT FURTHER NOTICE OR HEARING.

(c) Motions for relief from automatic stay in chapter 13 cases shall not be subject to the negative notice provisions set above. Each motion shall be set for hearing.

(1) If the parties reach an agreement that includes a provision for payment of a post-petition monetary default through the Chapter 13 Plan (a Hoggie amendment), the agreement shall indicate a single amount. This single amount includes both the amount of the prepetition monetary default and the post-petition monetary default, without deduction for any amount paid by the chapter 13 trustee.

- (2) The parties shall not submit a proposed order to the court unless the chapter 13 trustee has confirmed that the feasibility of the plan is not affected. If the feasibility of the plan is affected, the plan will be modified by the terms of the order.
- (d) Motions for relief from automatic stay that permit a party in a civil action to pursue its claim against a debtor are granted only to the extent of available insurance coverage, unless the court specifically orders otherwise after notice and hearing.
- (e) Any motion for relief from automatic stay that fails to comply with this rule is subject to dismissal without prejudice and without notice or a hearing.
- (f) An objection to a motion for relief from automatic stay may be overruled without a hearing when the allegations in the response fail to give a legally sufficient basis for opposing the motion, or where it appears that a response has been filed in bad faith or for the purposes of delay. Well-pleaded allegations in motions that are not specifically denied may be deemed admitted.
- (g) Notwithstanding the language of any motion filed hereunder:
- (1) Waivers of the 14-day period under Rule 4001(a)(3), Federal Rules of Bankruptcy Procedure, are not permitted, except through an agreement among the parties or upon a specific finding made by the court at a hearing held upon notice to the debtor.
- (2) Relief granted under this rule shall not waive any right of a debtor with respect to property under nonbankruptcy law, including the right to notice of sale and notice of disposition of property, or rights of redemption.

- (3) Unless otherwise ordered, relief from automatic stay granted under this rule shall apply only to the case in which the motion is filed and shall not be operative in any other case;
- (4) Unless otherwise ordered, relief granted under this rule shall not operate to grant *in personam* relief.

Rule 4001-2 Automatic Stay, Chapter 13 Cases after Confirmation

- (a) After confirmation of the debtor's plan in a chapter 13 case, a secured party may take the following action without seeking relief from automatic stay:
- (1) make written inquiry as to the nature, condition or location of the collateral;
 - (2) send a nonthreatening written notice of payments due, of changes in the amount of payments due or in the address where payments are to be sent, of an improper amount that has been sent, or of a check that has been dishonored;
 - (3) send a written request for proof of insurance of collateral, if insurance is required under the terms of the contract; or
 - (4) If a creditor's claim is secured by an interest in real property or personal property that is the debtor's principal residence, send all payment coupons or statements of account that the creditor provides to its non-bankruptcy debtors.
- (b) Any written communication directed to the debtor pursuant to this rule shall be served on the debtor's counsel of record.

Rule 4001-3 Emergency Motions for Relief from the Automatic Stay

- (a) In the event of an emergency, where the moving party needs relief on an expedited basis, the provisions of this rule shall apply.
- (b) The title of the motion shall indicate prominently that it is an emergency.
- (c) The motion shall be supported by a declaration setting forth the facts on which the moving party relies.
- (d) The moving party shall contact chambers to make the court aware of the emergency filing and shall obtain a hearing date.
- (e) The moving party shall serve notice of the expedited hearing on all interested parties at the time the motion is filed, or as soon as possible.
- (f) *Ex parte* motions for relief from automatic stay will be granted only in certain circumstances upon a showing made by affidavit, or otherwise as required by the court.

Rule 4002-1 Duties of the Debtor

- (a) In addition to those duties imposed upon debtors in 11 U.S.C. § 521, and Rule 4002, Federal Rules of Bankruptcy Procedure, debtors in cases filed in this court shall comply with the requirements of this rule.
- (b) All debtors shall bring a picture identification to § 341 meeting of creditors and shall display the same to any interested party who requests to see it.
- (c) In chapter 13 cases, debtors shall:
 - (1) Retain proof of payment of all payments made to the chapter 13 trustee and proof of all payments made directly to creditors under the terms of the chapter 13 plan;
 - (2) Produce proof of any such payment within 14 days of a written request made by the trustee or any interested party, without the service of formal discovery or order of the court;
 - (3) If a debtor is under a contractual obligation to insure any property, provide proof of insurance within 14 days of a written request made by any interested creditor;
 - (4) Upon 7 days' notice, bring documents reasonably requested by the trustee to the § 341 meeting of creditors or any adjourned meeting of creditors;
 - (5) Provide tax returns to the trustee in accordance with § 521(e)(2)(A) in PDF format via email at the trustee's listed email address.

Rule 4004-1 Grant or Denial of Discharge

(a) Discharge in Chapter 12 and 13 Cases. Within 30 days of the Trustee's filing of the notice of completion of plan payments, a debtor shall file a motion/certification with the court for entry of a discharge under 11 U.S.C. §§ 1228(a) and 1328(a). Any such motion shall conform to Local Form 6 or 7 and include the following:

- (1) in chapter 13 cases, a certification about a financial management course as described in 11 U.S.C. §111;
- (2) a statement concerning payment of domestic support obligations;
- (3) a statement concerning compliance with 11 U.S.C. §§ 1228(f), 1328(h) and 522(q).
- (4) In chapter 13 cases, a statement acknowledging that the debtor has not received a discharge in a prior bankruptcy case filed within the set periods as described in § 1328(f).
- (5) A list of debts not discharged.

(b) Prior to filing a motion for discharge under § 1328(a) or § 1328(b), a debtor shall file a certification about a financial management course.

- (1) Should a debtor be entitled to a waiver of the requirement for completing a financial management course, a debtor shall file a motion for a waiver, and shall receive an order granting a waiver before filing a motion for discharge.

(c) A motion for hardship discharge under § 1228(b) or § 1328(b) shall include all requirements of LBR #4004-1(a), Bankr. M.D. Ala. as well as:

- (1) A factual statement showing entitlement to discharge under § 1228(b) or § 1328(b); and

- (2) A statement concerning satisfaction of the best interest of creditors test under § 1325(a)(4).
- (d) The debtor shall serve a motion for discharge under § 1228 or § 1328 on the bankruptcy administrator, the trustee, all DSO recipients, and all interested parties.
- (e) A motion for discharge under § 1228(a) or § 1328(a) shall be filed under the negative notice provisions of LBR #9007-1, Bankr. M.D. Ala.
- (f) Unless a party in interest timely files an objection to a motion for discharge, the court may find without a hearing that no reasonable cause exists to believe that:
- (1) Section 522(q)(1) may be applicable to the debtor; and
 - (2) There is pending any proceeding in which the debtor may be found guilty of a felony of the kind specified in § 522(q)(1)(A) or liable for a debt of the kind described in § 522(q)(1)(B).
- (g) Closing Individual Chapter 11 Cases. In an individual chapter 11 case, after the effective date of a confirmed chapter 11 plan, the court may, upon motion by the debtor and opportunity for hearing, close the chapter 11 case provided any related adversary proceeding is not pending. Upon satisfaction of the requirements of § 1141(d)(5), the debtor may move to reopen the chapter 11 case and request a discharge. The debtor shall not be obligated to pay quarterly fees or file financial reports while the case is closed.

Rule 5005-1 Electronic Filing and Transmittal of Papers

- (a) The official records of this court shall be maintained electronically in accordance with the standards provided by the Administrative Office of United States Courts. The clerk is authorized to publish standards for the electronic filing and transmittal of papers. Papers that have been filed or transmitted under these standards shall be deemed properly filed or transmitted for all purposes. The clerk may accept paper filings on an emergency basis, but is not required to do so, except as provided below. The clerk shall provide and maintain facilities for the public to scan documents to be filed electronically.
- (b) The following documents do not need to be filed electronically, unless the party making the filing is represented by a registered CM/ECF participant:
 - (1) responses made by creditors to objections to claims which are subject to the negative notice provisions of LBR #3007-1, Bankr. M.D. Ala.,
 - (2) responses to motions filed according to the negative notice provisions of LBR #9007-1, Bankr. M.D. Ala.,
 - (3) complaints filed pursuant to 11 U.S.C. § 523(c) or § 727, or
 - (4) notices of appeal filed pursuant to Rule 8001, Federal Rules of Bankruptcy Procedure.
- (c) The clerk may accept papers filed in open court which relate to a matter then being heard.
- (d) A bankruptcy judge may, in the court's discretion, accept papers filed with the court, but is not required to do so.

Rule 5005-2 E-Government Act of 2002

- (a) In compliance with the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact the following personal data identifiers from all pleadings filed with the court:
- (1) social security numbers,
 - (2) names of minor children,
 - (3) dates of birth, and
 - (4) financial account numbers.
- (b) Any pleading or paper filed with the court shall be subject to the following provisions:
- (1) Minor children shall be identified only by initials;
 - (2) Only the year of a child's birth shall be disclosed;
 - (3) Only the last four digits of any social security shall be listed, except as required on Official Form 121; and
 - (4) Only the last four digits of an account number shall be listed.
- (c) The responsibility of redacting these personal identifiers rests with counsel and the parties. The clerk will not review each pleading for compliance with this rule.
- (d) A party wishing to file a document containing any of the personal identifiers listed above may file an un-redacted document under seal. This document shall be retained as part of the court record. The court may still require the party to file a redacted copy for the public file.

Rule 5005-3 Broadcasting, Photographs, Telephones, and Other Communication Devices

Whether or not the court is actually in session, there shall be no radio or television broadcasting or taking of photographs in any form in or from the courtrooms during the progress of, or in connection with, any judicial proceedings, including proceedings before a trustee or bankruptcy administrator. This restriction does not apply to ceremonial proceedings. Telephones, pagers, or similar communication devices are not allowed in the courtrooms.

Rule 7003-1 Commencement of Action

An adversary proceeding is commenced by filing:

- (1) a complaint;
- (2) an Adversary Proceeding Cover Sheet on Official Form 1040;
- (3) a Summons in an Adversary Proceeding on Form 2500A , completed except for the date and the clerk's signature and seal; and
- (4) payment of the filing fee, if required by law.

Rule 7005-1 Service and Filing of Pleadings and Other Papers

- (a) Except as provided by LBR #5005-1, Bankr. M.D. Ala., all pleadings and papers shall be filed electronically with the clerk.
- (b) Provided that the notice of electronic filing issued by the clerk indicates that service has been made, pleadings and papers filed electronically are deemed served upon all CM/ECF participants who are parties in the proceeding. Follow up service of a paper pleading is not necessary unless the acknowledgment of filing does not indicate that service was made.

Rule 7016-1 Conferences of Attorneys

- (a) The court may schedule a pretrial conference in accordance with Rule 16, Federal Rules of Civil Procedure, or in its discretion. The court may also dispense with such a conference and require the filing of a report pursuant to Rule 26(f), Federal Rules of Civil Procedure.
- (b) No later than 7 days prior to the date of any scheduling conference set by order of this court, counsel for the parties shall confer to discuss the matters set forth in Rule 26(f), Federal Rules of Civil Procedure. In adversary proceedings set for a pretrial conference, the parties should not file a written report set forth in Rule 26(f), but should be prepared to make an oral report of the matters set forth in that rule unless otherwise ordered by the court.

Rule 9006-1 Enlargement of Time to Plead and Continuances of Trials or Hearings

- (a) Motions for enlargement of time to file any pleading or paper shall not be filed unless the moving party has first sought the agreement of the opposing parties, if any, and the trustee if the trustee is a party to the proceeding. The moving party shall certify whether or not the opposing parties have consented to the motion.
- (b) Motions to continue trials or hearings shall not be filed unless the moving party has first sought the agreement of opposing parties, if any. The moving party shall certify whether or not consent was obtained. If consent has not been obtained, the motion shall be supported by an affidavit or declaration describing the reasons for the continuance.
- (c) Motions to continue trials or hearings will be granted only upon a showing of good cause. The court may deny a motion for a continuance without the consent of the opposing party.
- ~~(d) The additional three days provided by Rule 9006(f), Federal Rules of Bankruptcy Procedure, is allowed if the notice or other paper is served electronically.~~

Rule 9007-1 Negative Notice Procedure

(a) The following motions may be considered by the court without an actual hearing under the negative notice procedure described in this rule. If no interested party files a written objection stating specific grounds for objecting, then the motion may be taken under advisement by the court and may be granted without further notice or hearing.

- (1) Motions to approve agreements relating to relief from the automatic stay pursuant to Rule 4001(d).
- (2) Motions to use, sell, or lease property of the estate pursuant to Rule 6004(a), but not motions filed under Rule 6004(c), or motions to sell free and clear of liens.
- (3) Motions to avoid liens on property pursuant to 11 U.S.C. § 522(f).
- (4) Notices of abandonment pursuant to Rule 6007(a).
- (5) Motions to approve compromises or settlements pursuant to Rule 9019(a).
- (6) Objections to claims of exemptions filed by trustees pursuant to Rule 4003(b).
- (7) Motions to assume or reject executory contracts pursuant to 11 U.S.C. § 365.
- (8) Motions to modify confirmed chapter 13 plans pursuant to Rule 3015(g).
- (9) Motions to redeem personal property pursuant to 11 U.S.C. § 722.
- (10) Motions to defer entry of discharge pursuant to Rule 4004(c)(2), for no more than 30 days.
- (11) Motions to convert a case from chapter 7 to another chapter.
- (12) Motions for discharge under §§ 1328(a) and 1228(a).
- (13) Motions to incur debt in chapter 13 cases.
- (14) Applications to employ professional persons pursuant to 11 U.S.C. § 327.

(15) Motions to limit service to creditors who have previously filed claims in chapter 7, 12, and 13 cases provided the claims bar date has passed. No government entity shall be included in motions to limit service.

(16) Motions filed under this rule shall contain a negative notice legend like the following on the first page of the motion:

PURSUANT TO LBR #9007-1, BANKR. M.D. ALA., THIS MOTION WILL BE TAKEN UNDER ADVISEMENT BY THE COURT AND MAY BE GRANTED UNLESS AN INTERESTED PARTY FILES A RESPONSE WITHIN 21 DAYS OF THE DATE OF SERVICE. RESPONSES MUST BE SERVED UPON THE MOVING PARTY. AND FILED ELECTRONICALLY WITH THE CLERK OR BY U.S. MAIL ADDRESSED TO THE CLERK, U.S. BANKRUPTCY COURT, ONE CHURCH STREET, MONTGOMERY ALABAMA 36104.

Rule 9011-1 Signing Electronically Filed Papers

- (a) Electronically submitted papers shall be deemed to have been signed by the authorized participant. The authorized participant may use any reasonable means to indicate signature on a document signed and filed under this rule, including the “/s/” electronic signature.
- (b) Signatures of people on electronically filed documents other than authorized participants may be done as follows:
 - (1) A paper document may be signed with wet ink and scanned to convert it to electronic form, then filed with the court; or
 - (2) If the participant does not have the means to scan a hard copy document and convert it to electronic form, a hard copy document may be signed with wet ink, and the original shall be kept by the authorized participant. The electronic document filed by these means shall have “/s/” above the typed name of the person signing. By filing a document with “/s/,” the authorized participant certifies that he has kept the document in a manner consistent with this rule. Any document so maintained shall be available to the court, or any interested party, for inspection and copying upon reasonable notice, and shall be kept for four years after the court closes the case.
- (c) Authorized participants shall protect their passwords from unauthorized use. If an authorized participant obtains knowledge of any unauthorized use of the account, he shall immediately notify the Clerk’s Office and any party known to have been served or affected by such unauthorized use.

Rule 9011-2 Signature Blocks

(a) Every pleading or paper filed with this court shall have a signature block at the end of the text with the following information:

- (1) the full name of each person who signed the paper;
- (2) at least one complete mailing address;
- (3) at least one telephone number and facsimile (fax) number, if one is available; and
- (4) an email address, if available.

Rule 9020-1 Contempt Proceedings

- (a) Contempt proceedings shall be done only when it is alleged that a person has willfully disobeyed an order of the court. Proceedings that allege a violation of the automatic stay or the discharge injunction shall be brought by motion or adversary proceeding, not under this rule.
- (b) Motions alleging that a person has committed a contempt of court shall be supported by a declaration or affidavit setting forth specifically the violated order of court and the acts committed in violation of the order.
- (c) Motions filed in violation of this rule may be dismissed without prejudice and without notice or hearing.

Rule 9023-1 Motions for New Trials; Motions to Alter or Amend a Judgment

- (a) Motions filed pursuant to Rule 9023, Federal Rules of Bankruptcy Procedure, shall specifically state their grounds. The court may deny any motion that does not state legally sufficient grounds without a hearing.
- (b) Motions filed pursuant to Rule 9023, Federal Rules of Bankruptcy Procedure, will not be granted by the court unless they are set for hearing, or the opposing parties are given notice and time to respond.

Rule 9027-1 Removal

Any party who removes a civil action or proceeding from this court shall, within 21 days of filing the notice of removal, file a complete copy of the record.

Rule 9036-1 Notice by Electronic Transmission

- (a) Notices required or permitted to be sent by the clerk shall be sent electronically to all parties' counsel who are CM/ECF participants.
- (b) CM/ECF participants shall be deemed to have been served upon entry of electronic confirmation of service.
- (c) CM/ECF participants may serve any document required or permitted to be served electronically upon other CM/ECF participants. Follow-up service with a paper document is not required.