

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA

FILED

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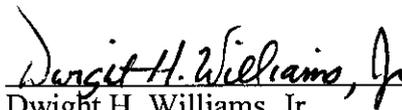
U.S. BANKRUPTCY COURT
MONTGOMERY, ALABAMA

ADMINISTRATIVE ORDER 2009-11
AMENDING LOCAL BANKRUPTCY RULES

On March 26, 2009, the Supreme Court approved changes to Bankruptcy Rule 9006(a), as well as changes to similar appellate, civil, and criminal rules, which address the method in which time is calculated in the federal courts. On May 7, 2009, the Statutory Time Period Technical Amendments Act of 2009 was enacted (Pub. L. No. 111-016). The law likewise adjusts the time periods in 28 statutes, including nine sections of the Bankruptcy Code. Both the statutory and rules changes will take effect on December 1, 2009.

In order to be consistent with the manner in which time is computed under the amended statutory and federal rules, it is

ORDERED that the Local Bankruptcy Rules for the Middle District of Alabama are amended and adopted as attached effective December 1, 2009.



Dwight H. Williams, Jr.
Chief United States Bankruptcy Judge



William R. Sawyer
United States Bankruptcy Judge

**U.S. Bankruptcy Court
Middle District of Alabama
Local Bankruptcy Rules**

Amendments Effective December 1, 2009

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**LOCAL RULES
UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF ALABAMA**

Rule 1001-1 Scope

These rules govern procedures in the United States Bankruptcy Court for the Middle District of Alabama. These rules 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. These rules shall be construed in a manner so as not to be inconsistent with the Federal Rules of Bankruptcy Procedure. These rules shall become effective on July 1, 2008.

Rule 1002-1 Commencement of Case

(1) A case is commenced by filing with the Clerk:

(a) a Petition using the appropriate Official Form.

(b) a mailing matrix in a format prescribed by the Clerk.

(c) a filing fee, paid in full in accordance with LBR 1006-1, or the first installment together with a motion to pay the filing fee in installments in accordance with LBR 1006-1.

(2) Petitions filed by lawyers who are registered CM/ECF participants shall be accompanied by a Declaration re: Electronic Filing of Petition, Schedules & Statements, on Local Form 1.

(3) Petitions filed by persons who are not registered CM/ECF participants shall be accompanied by Official Form B 21, Statement of Social Security Number, which shall be maintained by the Clerk in a nonpublic file.

Rule 1005-1 Caption of Petition

(a) Petitions and other papers filed with the Court, except Official Form B 21, shall identify the debtor by the last four numbers of the debtor's social security number or employer identification number. The remainder of the numbers shall be redacted.

(b) Debtor(s)' Residential Mailing Address and County of Residence. The address of the debtor(s)' residence (if different from the debtor(s)' stated mailing address, and/or if the stated mailing address is a post office box) and the name of the county of the debtor(s)' residence shall be stated in that portion of Official Form 1, for a Voluntary Petition, or in that portion of Official Form 5, for an Involuntary Petition, which initiates 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 which is 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 which are not accompanied by payment of the filing fee in full shall be made as follows:

(1) Official Form 3, Application to Pay Filing Fee in Installments, shall be filed.

(2) The number of installments shall not exceed four, and the final installment is due not later than 120 days from the date the petition is filed. Installments are due not less often than 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 to the contrary.

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

(f) The Clerk is not required to accept for filing petitions which do not comply with this rule.

(g) Petitions accepted by the Clerk which do not comply with this rule, or petitions filed in cases where payment is not honored, or is later dishonored, are subject to dismissal upon 36 hours written notice given by the Clerk.

(h) In a chapter 13 case where the filing fee is to be paid in installments, the initial installment must be paid to the Clerk with the filing of the petition. Future installments may be paid either 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 set out 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

Individual debtors required to file a certification concerning § 522(q) exemptions shall file a certification concerning § 522(q) exemptions:

(1) In Chapter 12 and 13 cases, the certification shall be included in the Motion for discharge under § 1228, § 1328, and Rule 4004-1.

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

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

* * * * *

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

* * * * *

(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 shall be served upon the Bankruptcy Administrator and any party affected by the amendment.

(b) Amendments to Schedule C (Claim of Exemptions) shall be served upon all parties in interest.

(c) If a debtor adds a creditor by way of an amendment to the schedules, any such schedule shall be served upon the creditor together with a copy of the Notice of Commencement of the case. The debtor shall file an amended mailing matrix with any such amended schedule.

(d) If Schedules D, E or F are amended only to add a creditor, the amended schedule need only list the added creditor. A complete amended schedule need not be filed unless a creditor is to be deleted from a schedule.

(e) Amended schedules shall be filed using the appropriate Official Form prescribed by the Administrative Office and shall be signed and verified by the debtor as required by Bankruptcy Rule 1008.

(f) Proof of service shall be attached to any amended paper filed with the Court under this rule.

Rule 1017-1 Dismissal

(a) The Trustee, the Clerk or the Bankruptcy Administrator may serve notice of dismissal in accordance with the provisions of this rule. Where a Notice of Dismissal is served pursuant to this rule, and a response is not 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) the failure to file any Schedule or Statement within the time allowed by law or order of this Court; or
- (2) default in the payment of an installment payment under LBR 1006-1.

(c) The Trustee or Bankruptcy Administrator in cases under Chapter 7 may serve a Notice of Dismissal for:

- (1) the failure of the debtor to appear at a Section 341 meeting of creditors;
- (2) the failure to serve notice or file proof of service of a notice in accordance with LBR 2003-1(b);
- (3) the failure to timely file answers to interrogatories, if permitted under LBR 2003-1(e);
- (4) The failure of the debtor to provide a tax return pursuant § 521(e)(2)(A); or
- (5) The failure of the debtor to obtain prepetition credit counseling in accordance with §§ 109(h)(1) and 521(b).

(d) The Trustee or Bankruptcy Administrator in cases under Chapter 12 or 13 may serve a Notice of Dismissal for:

- (1) the failure of the debtor to appear at a Section 341 meeting of creditors;
- (2) a material default in payments under a confirmed Plan;
- (3) the failure to timely commence payments pursuant to 11 U.S.C. § 1326(a)(1);
- (4) Death of the debtor;
- (5) the failure of the debtor to pay any domestic support obligation pursuant to § 1307(c)(11) and § 1208(c)(1);
- (6) the 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) the failure of the debtor to obtain pre-petition credit counseling pursuant to §§ 109(h)(1) and 521(b).

(e) The Bankruptcy Administrator in cases under Chapter 11 may serve a Notice of Dismissal for:

- (1) the failure to appear at a Section 341 meeting of creditors;
- (2) the failure to file reports as required by LBR 2015-1;
- (3) the failure to appear at a conference scheduled pursuant to LBR 2015-1; or
- (4) In a case where the debtor is an individual, for the failure to obtain prepetition credit counseling pursuant to §§ 109(h)(1) and 521(b).

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

PURSUANT TO LBR 1017-1, 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 cases under Chapters 7 or 13, debtors seeking to continue a meeting of creditors shall first telephone 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 established pursuant to Bankruptcy Rule 4004(a) is extended to that date which is 60 days after the continued 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 parties in interest on Local Form 2 and file proof of service not later than 14 days after the date of the initial setting.
- (c) In cases under Chapter 11, 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 attempted to resolve the matter informally. Any motion filed under this provision shall set forth with specificity the attempts made to resolve the matter.
- (e) In cases of dire necessity, a personal appearance of a debtor may be excused at a Section 341 meeting, upon the filing of a properly supported motion. Motions based upon the physical or mental condition of the debtor shall be supported by a statement of the debtor's physician. Motions based upon the inability of a member of the armed services to appear due to the debtor's deployment shall be supported by copies of the deployment orders. Motions based upon 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. Mere inconvenience to the debtor is not a sufficient basis to excuse the debtor's

appearance.

(f) Where a debtor's appearance has been excused, the debtor shall file completed interrogatories on a form prescribed by the trustee and/or Bankruptcy Administrator and shall promptly respond to any reasonable follow-up questions, unless the debtor is physically unable to execute the same, not later than 14 days after the date of the order excusing the debtor's personal appearance.

(g) Where the debtor's physical appearance has been excused by the Court and the 341 is to be completed by telephone, the debtor shall arrange with the Trustee for the telephone hearing and give notice to all creditors of the telephone hearing.

Rule 2004-1 Examination

(a) No party in interest shall file a Notice of Rule 2004 Examination 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 2004 examination, identifying the person to be examined and setting for the time and place for examination.

(b) If the examining party cannot reach an agreement, Notice of 2004 Examination shall be served, in accordance with Bankruptcy Rule 7004, upon the person to be examined and his counsel, if any, the Bankruptcy Administrator, and the Trustee, if any. The Notice of Examination shall identify the person to be examined, the date and place of examination. The examining party shall certify 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 person to be examined to bring books, documents, or tangible things which are in his custody or control.

(d) The person to be examined, or any party in interest, may file an objection to the Notice of Examination not 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 cases under Chapter 11 Debtors in Possession shall:

- (1) file regular reports as required by the Bankruptcy Administrator;
- (2) appear for conferences and produce such documents or other evidence as the Bankruptcy Administrator may require from time to time;
- (3) cooperate with the Bankruptcy Administrator;
- (4) furnish such information about the operation of the debtor as may be reasonably requested by a party in interest.
- (5) File Quarterly Fee Statements as prescribed by the Bankruptcy Administrator. These statements shall be filed with the Clerk along with payment of appropriate quarterly fees as required by 28 U.S.C. § 1930(a)(6). Such statements and fees are due not later than the last day of the month immediately following the end of the calendar quarter for which they are incurred. Payments must be mailed so as to ensure they are received by the due date and made payable to: Clerk, 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) Insurance Policies. The debtor must provide to the bankruptcy administrator within 14 days of the filing date, copies of the declaration pages for all insurance policies maintained by the debtor. At all times, the debtor must maintain adequate hazard and liability insurance on all property of the debtor 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 policies, including cancellation or non-renewal.

(7) Tax Returns. In cases involving individual chapter 11 debtors, the debtor shall provide copies of the 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 opened as of the date of the filing of the petition. 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 the posting of collateral or bonds to secure amounts in excess of FDIC coverage.

(9) Books, records and inspections. The debtor shall close its 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 its 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 or monies collected under any law of the United State, or any state or subdivision thereof. The debtor shall timely pay all postpetition taxes. Evidence of payment of taxes 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 file all postpetition returns timely.

(b) Counsel for Debtors in Possession shall account for all amounts paid or held as a retainer and shall account for the same as may be required, from time to time, by the Bankruptcy Administrator.

(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/or account numbers shall be served on the bankruptcy administrator and all parties in interest who make a request in writing, but shall not be filed with the Court.

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

(a) The Court may, from time to time, prescribe a presumptive fee allowed to attorneys who represent debtors in cases under Chapter 13. Attorneys who request fees in an amount which does not exceed the presumptive fee need not file an application under Bankruptcy Rule 2016.

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

(2) The debtor, the trustee or any party in interest 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 upon the Court's own motion, on notice to the attorney for the debtor, the Court may reduce the amount of the attorney's fees allowed in any Chapter 13 case, 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 cases under Chapter 13, regarding the holder of a mortgage secured by residential real property:

(1) Creditor need not 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 holder of the mortgage.

(2) Creditor shall file a proof of claim for the "contractual" monthly payment in those instances where the debtor's plan proposes to maintain the contractual monthly mortgage payments through payments to the Chapter 13 Trustee. Said claim should include the amount of the contractual monthly payment and escrow amount. If during the pendency of the plan, the contractual monthly payment should change due to a change in interest rates or escrow amounts, then 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 which came due prior to the date of the petition but which have not been paid as of the date of the petition) accruing prior to the petition shall be filed in accordance with Bankruptcy Rule 3002 and shall be calculated separately from the amount due for postpetition monthly payments.

Rule 3002-2 Electronic Filing of Claims

Any entity which files more than 25 proof of claim forms, amendments to proof of claim forms, or transfer of claim forms 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 with particularity their grounds and the relief sought.
- (b) If the objection goes to the substance of the underlying indebtedness, and is not a matter of form or procedure, the objection shall be supported by a declaration or affidavit setting forth the factual basis for the objection. If the objecting party is unable to secure such a declaration or affidavit, the objection shall explain why and provide a statement, based upon information and belief, as to the factual basis of the objection.
- (c) Objections to claims shall contain on the first page, a negative notice legend which is substantially in the following form:

PURSUANT TO LBR 3007-1, 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 being dismissed, without prejudice, without further notice or hearing.

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

(a) Chapter 13 Plans shall conform, as nearly as practicable, to Local Form 3.

(b) A Chapter 13 Plan shall be filed with the petition if practicable, but not later than 14 days thereafter, unless the Court approves, for good cause shown, an extension of time. If a Chapter 13 Plan is not filed with the petition, the Debtor shall serve copies upon all parties in interest and attach proof of service to any such plan filed at any time other than with the petition.

(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. A motion to modify a confirmed plan shall be served by the moving party upon all parties in interest together with a copy of the Amended Plan. The motion will be taken under advisement and may be granted without further notice or hearing unless a party in interest either timely objects or requests that a Section 341 meeting of creditors be scheduled.

(e) Amended or Modified Chapter 13 Plans shall indicate conspicuously, by way of underscoring, any provision which is changed from the prior plan. All amended or modified plans shall indicate the date conspicuously on the first page of the amended or modified plan.

(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 a party in interest, 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, not less than 7 days before the date of the hearing on confirmation of the Plan. Copies of the objection shall be served upon each debtor, counsel for the debtor and the Chapter 13 Trustee. Objections shall state with particularity their grounds.

(b) Objections to motions to modify Chapter 13 Plans after confirmation shall be filed not later than 21 days after service of the motion to modify. Copies shall be served upon each debtor, counsel for the debtor and the Chapter 13 Trustee.

(c) Objections which do not state legally sufficient grounds may be overruled without further notice or hearing.

Rule 3015-3 Confirmation Hearings

The Court may dismiss at any scheduled hearing on confirmation of a Chapter 13 Plan, a Chapter 13 case 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),
- (3) the debtor's failure to appear at a 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 reasonably 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 payment 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 but need not raise this objection before confirmation of the plan.

Rule 3015-5 Excusal of Payments

In the event the debtor is in need of a temporary excusal of the debtor's chapter 12 or 13 payments, the debtor shall first submit in writing to the chapter 12 or 13 trustee a request for a temporary excusal of the debtor's payments. If the trustee denies the debtor's request for a temporary excusal of payments, and the debtor desires to continue with the request for excusal of payments, the debtor shall file a motion to excuse payments due under the plan. If the payments are excused either by the trustee or by the Court's order granting the motion to excuse the plan payments, this will only excuse the payments for the period of time covered by the request and/or motion. The granting of a request and/or motion to excuse plan payments shall 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 form ballot distributed to creditors shall specify the address at which the ballot shall be filed.

Rule 4001-1 Automatic Stay-Relief From

(a) Motion Requirements

(1) All Motions for Relief From the Automatic Stay shall state with particularity the basis for relief or offset.

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

(b) Motions for Relief From the Automatic Stay in cases filed under Chapter 7 shall contain the following legend featured prominently on the first page of the motion:

PURSUANT TO LBR 4001-1, 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 Stay in cases under Chapter 13 shall not be subject to the negative notice provisions as set out hereinabove. Each motion shall be set for hearing.

(1) If an agreement reached between the parties includes a provision for payment of a post petition monetary default through the Chapter 13 Plan (a Hoggle amendment) the agreement shall indicate a single amount, which includes both the amount of the prepetition monetary default and the post petition monetary default, without

deduction for any amounts paid by the Chapter 13 Trustee.

(2) The parties shall not submit a proposed order to the Court unless they have first obtained a determination from the Chapter 13 Trustee that feasibility of the Plan is not affected. If feasibility of the plan is affected, the plan will be modified by the terms of the order.

(d) Motions for relief from the automatic stay to 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 the automatic stay which fails to comply substantially with this rule is subject to dismissal, without prejudice, without notice or a hearing.

(f) An objection to a motion for relief from the automatic stay may be overruled, without a hearing, when the allegations contained in the response fail to allege a legally sufficient basis to oppose the motion or where it appears that a response has been filed in bad faith or for the purposes of delay. Well-pleaded allegations contained in motions which 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 Bankruptcy Rule 4001(a)(3) are not permitted, except pursuant to 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 operate to waive any right a debtor may have with

respect to property under nonbankruptcy law, including the right to notice of sale, notice of disposition of property, or rights of redemption;

(3) unless otherwise ordered, relief from the 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 subsequent 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 case under Chapter 13, a secured party may take the following action without seeking relief from the 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, of changes in the address where payments are to be sent, of an improper amount that has been sent, or of a check 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) When a creditor whose claim is secured by an interest in real property or personal property that is the debtor's principal residence, secured creditors may 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 upon which the moving party relies.
- (d) The moving party shall telephone chambers to make the Court aware of the emergency filing and obtain a hearing date.
- (e) The moving party shall serve notice of the expedited hearing upon all interested parties at the time the motion is filed, or as soon as practicable thereafter.
- (f) *Ex parte* motions for relief from the automatic stay will be granted only in extraordinary circumstances upon a showing made by affidavit, or otherwise as required by the Court.

Rule 4002-1 Duties of Debtor

(a) In addition to those duties imposed upon debtors pursuant to 11 U.S.C. 521 and Bankruptcy Rule 4002, debtors in cases filed in this Court shall comply with the requirements of this rule.

(b) All debtors shall bring a picture identification to any scheduled Section 341 meeting of creditors and shall display the same to any party in interest who requests to see it.

(c) In cases under Chapter 13, 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 a proposed or confirmed Chapter 13 Plan;

(2) Produce proof of any such payment within 14 days of a written request made by the Trustee or any party in interest, without the service of formal discovery or order of the Court;

(3) If a debtor is under a contractual obligation to insure any property, the debtor shall provide proof of insurance within 14 days of a written request made by any creditor who holds an interest in such property;

(4) Upon 7 days notice, bring such other documents reasonably requested by the Trustee to the Section 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 prescribed 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 § 1228(a) and § 1328(a). Any such motion shall substantially conform to Local Form 6 or 7 and include the following statements and certifications:

(1) In cases filed under Chapter 13 a statement concerning completion of an instructional course concerning personal financial management described in 11 U.S.C. Section 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 cases filed under Chapter 13 a statement concerning compliance with § 1328(f)'s requirement of no discharge if debtor received a discharge in a prior bankruptcy case filed within the prescribed periods.

(5) A statement of debts not discharged.

(b) Prior to filing a motion for discharge under § 1328(a) or § 1328(b), a debtor shall file a certificate of completion of an instructional course concerning personal financial management.

(1) Should a debtor be entitled to a waiver of the requirement for completing an instructional course concerning personal financial management, a debtor shall file a motion for a waiver, and 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 Local Rule 4004-1(a) and in addition shall include:

- (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 parties in interest.
- (e) A Motion for discharge under § 1228(a) or § 1328(a) shall be filed under the negative notice provisions of Local Rule 9007-1.
- (f) Unless a party in interest timely files an objection to a motion for discharge, the Court may find without a hearing that there is no reasonable cause 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 a chapter 11 case involving an individual debtor, 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 however that the debtor's case shall not be closed if any related adversary proceeding remains 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 debtor's 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 promulgated by the Administrative Office of United States Courts. The Clerk is authorized to publish standards for the electronic filing and transmittal of papers. Papers which have been filed or transmitted in conformance with such standards shall be deemed to be properly filed or transmitted for all purposes. The Clerk may accept “hard copy” or paper filings on an emergency basis, but is not required to do so, except as provided below. The Clerk shall provide and maintain facilities, available to the public, for the scanning of documents to facilitate electronic filing.

(b) The following documents need not 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,
- (2) Responses to motions filed pursuant to the negative notice provisions of LBR 9007-1,
- (3) Complaints filed pursuant to 11 U.S.C. § 523(c) or § 727, or
- (4) Notices of Appeal filed pursuant to Bankruptcy Rule 8001.

(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 where inclusion is necessary, the following personal data identifiers from all pleadings filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court:

- (1) Social Security numbers;
- (2) Names of minor children;
- (3) Dates of birth;
- (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 disclosed, except as required in Official Form B 21; and
- (4) Only the last four digits of an account number shall be disclosed.

(c) The responsibility of redacting these personal identifiers rests solely 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 personal identifiers listed above may file an unredacted 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, Pagers and Other Communications 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 or their environs 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 into courtrooms except in a non-audible mode.

Rule 7003-1 Commencement of Action

An adversary proceeding is commenced by the filing of:

- (1) A complaint;
- (2) An Adversary Proceeding Cover Sheet on Official Form B 104;
- (3) A Summons in an Adversary Proceeding on Official Form B 250A, 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, all pleadings and papers shall be filed with the Clerk by electronic means.

(b) Pleadings and papers filed electronically are deemed served upon all CM/ECF participants who are parties to the proceeding, provided that the notice of electronic filing issued by the Clerk indicates that service has been made. Follow up service of a “hard copy” pleading or paper 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, Fed. R. Civ. P., or in its discretion, may dispense with such a conference and require the filing of a report pursuant to Rule 26(f), Fed. R. Civ. P.

(b) Not 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), Fed. R. Civ. P. In adversary proceedings which are set for a pretrial conference, the parties need not file a written report as 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, and 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 setting forth with particularity the reasons for the continuance.

(c) Motions to continue trials or hearings will be granted only upon a showing of good cause. The Court is not bound by the consent of opposing parties and may deny a motion for a continuance notwithstanding the consent of the opposing party.

(d) The additional three days provided by Bankruptcy Rule 9006(f), is allowed if the notice or other paper is served by electronic means.

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 party in interest files a written objection stating specific grounds on which the objection is based, 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 Bankruptcy Rule 4001(d).

(2) Motions to use, sell or lease property of the estate pursuant to Bankruptcy Rule 6004(a), but not motions filed under Rule 6004(c)(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 Bankruptcy Rule 6007(a).

(5) Motions to approve compromises or settlements pursuant to Bankruptcy Rule 9019(a).

(6) Objections to claims of exemptions filed by Trustees pursuant to Bankruptcy 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 Bankruptcy 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 Bankruptcy Rule 4004(c)(2), for not more than 30 days.

(11) Motions to convert a case from Chapter 7 to another Chapter.

(12) Motions for discharge under Sections 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 governmental entity shall be included in motions to limit service.

(b) Motions filed under this rule shall contain a negative notice legend in substantially the following form prominently displayed on the face of the first page of the motion:

PURSUANT TO LBR 9007-1, THIS MOTION WILL BE TAKEN UNDER ADVISEMENT BY THE COURT AND MAY BE GRANTED UNLESS A PARTY IN INTEREST FILES A RESPONSE WITHIN 21 DAYS OF THE DATE OF SERVICE. RESPONSES MUST BE FILED WITH THE CLERK AND SERVED UPON THE MOVING PARTY. RESPONSES MUST BE 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 of Papers Electronically Filed

(a) Papers submitted by electronic means 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/ typewritten name convention.

(b) Signatures of persons other than authorized participants on electronically filed documents may be executed as follows:

(1) A hard copy document may be signed by conventional means and scanned to convert it to electronic form and 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 by conventional means and the original shall be maintained by the authorized participant. The electronic document filed by these means shall contain a notation “/s/” above the typed name of the person signing. By filing a document containing a notation “/s/” the authorized participant certifies that they have maintained the document in a manner consistent with this rule. Any document so maintained shall be available to the Court, or any party in interest, for inspection and copying upon reasonable notice and shall be maintained for a period of four years after the closing of the case by the Court.

(c) Authorized participants shall safeguard their passwords to prevent unauthorized use. If an authorized participant obtains knowledge of any unauthorized use of the account, he or she 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 which provides the following information:

- (1) The full typewritten name of each person who signed the paper;
- (2) At least one complete mailing address;
- (3) At least one telephone number and a facsimile (fax) number, if one is available; and
- (4) An e-mail address, if available.

Rule 9020-1 Contempt Proceedings

(a) Contempt proceedings shall be brought only where it is alleged that a person has willfully disobeyed an order of the Court. Proceedings which allege a violation of the automatic stay or the discharge injunction shall be brought by motion or adversary proceeding and 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 with specificity the order of court which has been violated and the acts committed in violation of the order.

(c) Motions filed in violation of this rule may be dismissed, without prejudice, without notice or hearing.

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

(a) Motions filed pursuant to Bankruptcy Rule 9023 shall state with specificity their grounds. The Court may deny, without a hearing, any motion which does not state legally sufficient grounds.

(b) Motions filed pursuant to Bankruptcy 9023 will not be granted by the Court unless they are set for hearing, or the opposing party or parties are given notice and an opportunity to respond.

Rule 9027-1 Removal

Any party who removes a civil action or proceeding to 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 by electronic means to all parties who are represented by 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 by electronic means upon other CM/ECF participants. Follow-up service by way of a hard copy document is not required.