L.R. 2003-1:

Title: Title has not been changed.
Text: Subsection (a)(3) of this Rule has been amended to clarify the procedure for objecting to dismissal based on the Trustee's 341 Meeting Report.

RULE 2003-1

MEETING OF CREDITORS AND EQUITY SECURITY HOLDERS

(a) Attendance.

(1) The court may dismiss a voluntary case, except a case that has been converted from a chapter 11 case to a chapter 7 case or from a chapter 7 case to a chapter 13 case, or a case in which the court has determined under § 341(e) of the Code that no meeting of creditors is required, if the debtor or the debtor's attorney fails to appear at the scheduled or continued meeting of creditors required under § 341 of the Code.

(2) The procedures for dismissal of a chapter 13 case for failure of the debtor or debtor's attorney to appear at the meeting of creditors are set forth in Local Rule 2083-1(e).

(3) In a case other than a chapter 13 case, if the debtor or the debtor's attorney fails to appear at the scheduled or continued meeting of creditors required under § 341 of the Code, the case trustee or U.S. Trustee must file a Section 341 Meeting Report (Report) indicating the failure to appear and serve it on the debtor and the debtor's attorney. If the Report contains a recommendation that the case not be dismissed, the case shall not be dismissed and administration of the case ~~shall~~must continue without prejudice to any motion to dismiss filed by a party in interest. If the Report does not contain a recommendation that the case not be dismissed and if an objection to the trustee's ~~notice~~Report is not filed within

21 days after ~~service of~~ the ~~notice,~~Report is mailed the clerk must enter an order dismissing the case. ~~The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a)(4). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection is not held within 40 days after the objection is filed.~~ In a chapter 7 case, the objection must also move for an extension of the time fixed under Fed. R. Bankr. P. 4007(c) and 4004(a) for filing a complaint under §§ 523(c) and 727 of the Code and the time fixed under Fed. R. Bankr. P. 4003(b)(1) for filing objections to exemptions under § 522(l) of the Code. The objecting party must set a hearing and give notice to the case trustee and any party appearing at the meeting of creditors pursuant to Fed. R. Bankr. P. 9006(d). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection is not held within 40 days after the objection is filed.

(4) In a joint case where only 1 spouse appears, the non-appearing spouse will be dismissed from the case.

(b) Duties of the Debtor in Connection with the Meeting of Creditors. The debtor is required to provide documentation prior to and at the meeting of creditors as requested by the trustee or the United States trustee and as required in § 521, Fed. R. Bankr. P. 4002(b), and Local Rule 4002-1(b). In addition, a chapter 13 debtor is required to provide the documents listed in Local Rule 2083-1(d) prior to or at the meeting of creditors.

(c) Telephonic Appearance at Meeting of Creditors. Under extenuating circumstances which prevent a debtor from appearing in person, a debtor may file a motion seeking permission to appear by telephone at a creditors' meeting required under § 341 of the Code. Extenuating circumstances may include military service, incapacitating condition, or incarceration.

The motion must be filed and served on the trustee and the United States trustee no later than 57 days prior to the scheduled meeting, and may be ruled upon without a hearing. The motion must describe in writing any efforts to give notice to and confer with the trustee prior to the filing of the motion. If the motion is granted, the debtor must also serve a copy of the order allowing a telephonic appearance on the trustee and the United States trustee. The debtor must contact the trustee to determine the time, date and location for the telephonic appearance. The debtor is responsible for any costs associated with conducting a telephonic appearance.

(d) Costs of Meeting Facilities. If the circumstances of a particular case require that the meeting of creditors be held somewhere other than the usual facilities, the estate of the debtor will be responsible for the rent and other appropriate costs associated with conducting the meeting in an alternate facility.

(e) Notice of Rescheduled Meetings of Creditors. If the initial meeting of creditors is rescheduled, the clerk must give notice of the new date and time of the meeting unless otherwise directed by the court.

L.R. 2004-1:

Title: Title has not been changed.
Text: The revisions to this Rule are technical.

RULE 2004-1

EXAMINATION UNDER RULE 2004

The court may enter an order granting a motion under Fed. R. Bankr. P. 2004(a) without prior notice or hearing if the motion:

(1) Identifies the entity to be examined;

(2) Sets forth in what manner or way the examination of the entity relates to the acts, conduct, or property or to the liabilities and financial condition of the debtor, or to any matter which may affect the administration of the debtor's estate, or to the debtor's right to a discharge; and

(3) (~~i~~A) Represents that the entity to be examined will receive not less than 14 days written notice of the examination, and attendance of an entity for examination and the production of documents will comply with Fed. R. Bankr. P. 2004(c); or

(~~ii~~B) Represents that the movant and the entity to be examined have stipulated in writing to the time and place of the examination and to the production of documents.

COMMENT (2013)

This rule permits parties, on an ex parte basis, to obtain a court order authorizing an examination pursuant to Bankruptcy Rule 2004. In order to obtain such an order, the movant must identify the entity to be examined, the entity's relationship to the debtor or the case and must represent that the entity has either consented to the examination or will receive at least 14 days notice of the examination and that entity's attendance will be compelled by subpoena. A Rule 2004 order, obtained ex parte, may not compel the entity to be examined to attend the examination or produce documents.

L.R. 2082-1:

Title: Title has not been changed.
Text: Subsection (b) of this Rule has been amended to reference the correct Federal Rule.

RULE 2082-1

CHAPTER 12 - GENERAL

(a) **Monthly Financial Reports.** Not later than 21 days after the end of each month, the debtor must file with the court a monthly financial report in the form approved by the United States trustee and serve a copy upon the chapter 12 trustee. The debtor's duty to file these reports terminates upon confirmation of a plan, or upon conversion or dismissal of the case.

(b) **Filing of Chapter 12 Plan**. The court may dismiss a chapter 12 case if the debtor fails to file a plan within the time provided in § 1221 of the Code. If the debtor does not file a plan timely, the chapter 12 trustee shall file a notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection to the trustee's notice is not filed within 21 days after notice is mailed, the clerk should enter an order dismissing the case. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. ~~2002~~9006(~~a~~d). If a hearing on the objection is not held within 40 days after the objection is filed, the clerk shall enter the order of dismissal, unless the court orders otherwise.

(c) **Payments**. Payments under a confirmed plan must be paid by certified funds or money orders made payable as directed by the chapter 12 trustee. The debtor may make and the trustee may accept payments in furtherance of a plan prior to confirmation. Such payments must be disbursed under a confirmed plan or further order of the court, and may be subject to a charge

for the trustee's expenses upon conversion or dismissal of the case, or confirmation of a plan.

(d) **Attorney's Fees**. All chapter 12 plans must contain a statement of attorney's fees paid and to be paid.

(e) **Monthly Payments**. Beginning at the first meeting of creditors and continuing each month thereafter until confirmation of a plan, the debtor may be required to pay to the chapter 12 trustee the actual and necessary expenses of the administration of the case as allowed by the court, or a minimum court-approved dollar amount to be fixed by the trustee, whichever is greater.

L.R. 2083-1:

Title: Title has not been changed.
Text: Subsection (d)(1)(E) of this Rule has been amended to reference the correct Local Rule . Subsection (k) has been amended to correct the response deadline.

RULE 2083-1

CHAPTER 13 - GENERAL

(a) **Chapter 13 Plan**. Unless otherwise ordered by the court, all chapter 13 plans shall substantially conform to the applicable Model Plan Form posted on the bankruptcy court's website.

(b) **Chapter 13 Plan Payments**. Unless otherwise ordered by the court, payments under § 1326 of the Code must commence not later than 30 days after the date of the filing of the petition or after the date of the entry of the order converting the case to one under Chapter 13. All such payments must be made by certified funds, money order, or a trustee-approved means of electronic funds transfer, made payable as directed by the trustee.

(c) **Preconfirmation Payments Pursuant to § 1326(a)(1)**. The chapter 13 plan shall list the creditor name, address, account number, payment due date, and payment amount for each creditor entitled to preconfirmation adequate protection or lease payments to be paid by the trustee.

(1) Adequate Protection. Unless otherwise ordered by the court, all preconfirmation adequate protection payments to holders of secured claims required under § 1326(a)(1) shall not be made by the debtor directly to the secured claimant, but

shall be paid to and disbursed by the trustee. The debtor's preconfirmation plan payments to the trustee shall include the amount required under § 1326(a)(1) and the amount necessary to pay the trustee's statutory fee.

(2) Lease Payments. If the chapter 13 plan provides for lease payments over the term of the plan to be paid by the trustee, preconfirmation lease payments to such lessors shall be paid by the trustee and the above provisions regarding preconfirmation adequate protection payments shall apply. If the chapter 13 plan provides for lease payments to be paid by the debtor and not by the trustee over the term of the plan, then preconfirmation lease payments to such lessors required under § 1326(a)(1) shall be made directly by the debtor and not by the trustee.

(d) Documents Provided to the Trustee at or before the Meeting of Creditors.

(1) In addition to those documents required by § 521, a debtor must provide to the trustee copies of the following documents at least 7 days before the date first set for the first meeting of creditors:

(A) Proof of all charitable contributions made within 60 days before the date of the filing of the petition;

(B) A copy of the most recent county property tax assessment for all real property listed on Schedule A;

(C) A profit and loss statement if a debtor had self-employment income for the 60 days prior to filing, including income reported on an IRS Form 1099;

(D) A business questionnaire for each business operated by the debtor 60 days prior to filing on a form supplied by the trustee; and

(E) Copies of tax returns required under Local Rule 6070-1(c)(~~3~~2).

(2) A debtor must provide to the trustee copies of the following documents at or before the first date set for the meeting of creditors:

(A) Evidence of current postpetition income such as the most recent payment advice; and

(B) Statements for each of the debtors' checking, savings, brokerage, and money market accounts and mutual funds for the time period that includes the date of the filing of the petition.

(e) Dismissal for Failure to Attend a Meeting of Creditors or Make Payments. If the debtor or the debtor's attorney fails to appear at the scheduled or continued meeting of creditors required under § 341 of the Code or if a debtor fails to make the first payment required by subsection (a) of this rule, the trustee must file a motion to dismiss or notice of failure to comply and serve it on the debtor and debtor's attorney. If an objection is not filed within 21 days after the motion or notice is mailed, the clerk shall enter an order dismissing the case. A hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.

(f) Preconfirmation Motions to Dismiss for Failure to File or Provide Documents or Comply with Other Requirements. In addition to cause for dismissal under § 1307(c), the trustee, or with respect to subpart (5), the applicable taxing authority, may file a motion to dismiss or notice of failure to comply for the following grounds:

(1) Failure to file documents required under Local Rule 1007-1(a)(2);

(2) Failure to provide identification and social security documentation under Fed.

R. Bankr. P. 4002(b)(1) or (b)(2);

(3) Failure to provide documents under subsection (c) of this rule;

(4) Failure to provide information in response to a written request by a trustee or United States trustee under Local Rule 4002-1(b); or

(5) Failure to provide proof of tax trust accounts under Local Rule 6070-1(a)(3) or failure to comply with requirements with respect to tax returns under Local Rule 6070-1(c).

The motion to dismiss or notice of failure to comply must be served on the debtor and the debtor's attorney. If an objection is not filed within 21 days after the motion or notice is mailed, the clerk must enter an order dismissing the case. A hearing on an objection filed in response to the trustee's notice of failure to comply will be held at the time scheduled as the confirmation hearing on Official Form 9I, unless the court orders otherwise. No notice in addition to the notice of hearing contained on Official Form 9I is required.

(g) Postpetition Child Support, Alimony, Maintenance Payments Deemed Voluntary. Unless a chapter 13 debtor on the petition date, or such later time as the court allows, files with the court, the trustee, and the requisite state office of recovery services a notice setting forth the debtor's intent to terminate postpetition child support, alimony, maintenance payments or income withholding, the debtor will be deemed as of the date of the petition to have stipulated as follows: (1) that any child support, alimony, or maintenance obligation that matures postpetition, whether continuing or delinquent and whether paid directly by the debtor or collected by means of income withholding under state law, is voluntarily made by the debtor under the debtor's budget of postpetition expenses; and (2) that any collection of such obligations will not constitute grounds for compensatory, injunctive or punitive relief against the collecting

party for any violation of the provisions of § 362 of the Code. This rule does not apply to any child support, alimony, or maintenance obligation that matures and becomes delinquent postpetition and that the debtor and a state office of recovery services have agreed in writing will be treated as a prepetition obligation included in the debtor's plan.

(h) **Eligibility Hearing**. A party must file and serve a motion to dismiss a chapter 13 case under § 109(e) of the Code not later than 7 days before the date set on Official Form 9I for the plan confirmation hearing. Such motion will be heard at the plan confirmation hearing, unless the court orders otherwise.

(i) **Distribution in Preconfirmation Cases**.

(1) Preconfirmation Disbursements by the Chapter 13 Trustee. Preconfirmation disbursements under § 1326(a)(1) are hereby authorized without further order. The amount and timing of adequate protection payments will be as stated in the plan or as ordered by the court; however, the trustee shall not disburse such payments until the creditor entitled to adequate protection has filed an allowed proof of claim. Claims filed after a case is dismissed will not receive adequate protection payments. Preconfirmation disbursements under § 1326(a)(1) shall be made to creditors within 30 days of the filing of the proof of claim, unless, within 7 business days prior to the end of such 30 day period, the trustee has not received sufficient, cleared funds to make such payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) preconfirmation disbursements.

(2) Distribution in Discontinued Preconfirmation Cases. If a case is converted or dismissed prior to confirmation, the trustee is authorized to apply the debtor's plan payments to pay: (1) an allowed expense fee to the standing chapter 13

trustee; (2) adequate protection payments pursuant to the terms in the preceding paragraph; (3) any allowed administrative expenses; and (4) the balance of such funds will be paid by check made payable to and sent to the debtor(s).

(j) Confirmation.

(1) Objections to Confirmation. Any objection to the original plan must be filed and served not later than 7 days before the date set on Official Form 9I for the plan confirmation hearing. If an amended or modified plan is filed, objections must be filed and served not later than 21 days after service of the plan or notice of such plan. All objections to the plan will be heard at the confirmation hearing, unless the court orders otherwise. If the objecting party does not appear at the confirmation hearing, the court may deem the objection to be withdrawn.

(2) Confirmation of the Plan. The debtor bears the burden of proof in establishing compliance with the requirements for confirmation under Title 11, Chapter 13, and specifically 11 U.S.C. § 1325. Any bankruptcy papers or amendments relating to confirmation of the plan must be filed with the court not later than four (4) business days before the confirmation hearing. If bankruptcy papers need to be filed after this deadline, counsel should seek a continuance of the confirmation hearing to give all parties an opportunity to review the papers. If the court confirms the plan, the debtor will be deemed to be in compliance with § 521(a)(1)(A).

(3) Confirmation Without a Hearing. If all timely filed objections to confirmation are resolved, the trustee may recommend to the court that the plan be confirmed without a hearing. If the court agrees, the confirmation hearing may be stricken, an order confirming the plan may be entered, and debtors and debtors' counsel

need not appear at the confirmation hearing.

(4) Evidentiary Hearings on Confirmation. If parties intend to put on evidence relating to confirmation of a plan, they should inform the court, the trustee, and any objecting party of such intent and request from the court a separate, evidentiary confirmation hearing.

(k) **Trustee Postconfirmation Motions to Dismiss**. The trustee's postconfirmation motion to dismiss or notice of failure to comply must be served on the debtor and the debtor's attorney. Within 2~~4~~1 days after the motion or notice is mailed ~~(21 days plus 3 days for mailing)~~, the debtor must take all of the following actions or the clerk shall enter an order dismissing the case: (1) file an objection to the motion or notice; (2) set the objection for a hearing; and (3) give notice of the hearing to the trustee.

(l) **Trustee's Report of Claims**. After the governmental claims bar date and after claims have been reviewed by debtors' counsel and/or the trustee, the trustee may file a Trustee's Report of Claims ("TROC") that lists all claims and how they are treated under the plan. The TROC will be served on the current mailing matrix. Any objection to the TROC must be filed within 21 days. If there are no timely objections, the TROC will be deemed incorporated into the confirmation order and will be binding on parties. If a timely objection is filed, the objecting party shall forthwith set and notice the matter for a hearing.

(m) **Request for Discharge**. As soon as practicable after the completion of all payments under the plan, the trustee shall file with the court and serve upon the debtor and debtor's counsel a Notice of Completion of Plan Payments. If debtor's counsel asserts unpaid fees or costs in a case, counsel must within 30 days of the filing of the Notice of Completion of Plan Payments take the following actions: (1) file an objection to the Notice of Completion of

Plan Payments, (2) file an appropriate application for such fees and costs, and (3) serve a notice of hearing on such application. Failure to timely comply with any of these requirements will result in a waiver of all such fees. Within 60 days thereafter, the debtor shall file and serve on all parties in interest a Verification and Request for Discharge in the form attached to these Local Rules as Local Bankruptcy Form 2083-1. If no written objection to the Verification and Request for Discharge is filed within 21 days after service thereof, the court may enter a discharge pursuant to § 1328(a) without further notice or hearing.

L.R. 2091-1:

Title: Title has been changed.
Text: This rule has been amended to provide a procedure for debtor's counsel to be relieved of their duty to represent the debtor in an adversary proceeding.

RULE 2091-1

DEBTORS' ATTORNEYS - SCOPE OF REPRESENTATION~~; WITHDRAWAL AND SUBSTITUTION~~

(a) Scope of Representation. A debtor's attorney must represent the debtor in all aspects of the case, including the meeting of creditors, ~~adversary proceedings,~~ motions filed against the debtor, and post-confirmation matters. ~~T~~ The debtor's attorney must also represent the debtor in adversary proceedings filed against the debtor unless, pursuant to this rule, the Court has excused the attorney from this requirement. The scope of representation cannot be modified by agreement. The court may deny fees or otherwise discipline an attorney for violation of this rule.

(b) ~~Withdrawal and Substitution. Unless otherwise ordered by the court, an attorney must file a written application seeking an order to withdraw or be substituted as attorney in any case or~~**Relief From the Duty to Represent Debtors in Adversary Proceedings**. If an adversary proceeding is filed against the debtor, the debtor's attorney may move the Court for an order relieving the attorney of the duty to represent the debtor in the adversary proceeding. The ~~application must set forth the reasons therefor, together with the name, address, and telephone number of the client, as follows:~~

motion shall be filed in the adversary proceeding and not in the main bankruptcy case.

(1) With Client's Consent. If the attorney obtains written consent of the client, the written consent must clearly advise the client of the last date to answer the complaint, and advise the client that default judgment may be entered if the client fails to answer the complaint. If the attorney has obtained the written consent of the client, the ~~consent must clearly advise the client of the requirements of subsection (e) of this Rule and must be filed with the application and a separate proposed written order. The papers~~motion may be presented to the court ex parte. ~~The withdrawing attorney must give prompt notice of the entry of the order to the client and to all other parties or their attorneys. An attorney representing a governmental unit is not required to obtain a client's signature to withdraw under this provision.~~

(2) Without Client's Consent. If the attorney has not obtained the written consent of the client, the ~~application~~motion must be served upon the client ~~and all other parties or their attorneys~~. The ~~application~~motion must be accompanied by a statement of the moving attorney certifying that:

(A) the ~~client has been notified in writing of the status of the case or proceeding, including the dates and times of any scheduled court proceedings, pending compliance with any existing court orders, the client's responsibilities under subsection (e) of this Rule, and the possibility of sanctions~~attorney has sent the client written notification advising the client that the attorney will not be representing the client in the adversary proceeding, advising the client of the last date to answer the complaint, and advising the client that a default judgment may be entered if the client fails to answer the complaint (a copy of the written notification must also be attached to the motion); or

(B) the client cannot be located or for whatever other reason cannot be notified of the pendency of the ~~application and the status of the case or proceeding.~~ ,motion

~~**(c) Withdrawal and Substitution After Hearing Before the Court or Trial Date is Scheduled**. An attorney may not withdraw after a hearing before the court has been scheduled or trial date has been set in a case or proceeding, unless:~~

~~(1) the application includes an endorsement that is signed~~

~~(A) by a substituting attorney indicating that such attorney has been advised of the hearing or trial date and will be prepared to proceed with the hearing or trial; or~~

~~(B) by the client indicating that the client is advised of the time and date and will be prepared for the hearing or trial; or~~

~~(C) by the attorney certifying that he or she has advised the client in writing of the hearing or trial date; and~~

~~(2) the court is otherwise satisfied, for good cause shown. should be permitted to withdraw.~~

~~**(d) Notification of Substituted Attorney**. An application to substitute attorney must state the address, telephone number, and, where applicable, Utah State Bar identification number of the substituting attorney.~~

~~**(e) Responsibilities of Party Upon Removal**. Whenever an attorney withdraws, dies, is removed or suspended, or for any other reason ceases to act as attorney of record, within 21 days of the date such attorney ceases to act as attorney of record, an attorney must file a notice of appearance or the client must file a notice of his or her decision to appear without an~~

~~attorney. If the client is proceeding without an attorney, the notice must provide his or her address, telephone number, and e-mail address, if one is available.~~

COMMENT (2014)

This rule has been amended to provide a procedure for debtor's counsel to be relieved of their duty to represent the debtor in an adversary proceeding. Because the scope of representation under this rule includes adversary proceedings, debtor's counsel will be the counsel of record in adversary proceedings. The option afforded by this rule is not mandatory. The rule is intended to ensure that the debtor is informed that the attorney will not be representing the debtor in the adversary proceeding, informed of the deadline to answer the complaint and informed that a default judgment may be entered if an answer to the complaint is not filed.

L.R. 5080-1:

Title: Title to this Rule has not changed.
Text: The revision to this Rule is technical (5080-1(c)).

RULE 5080-1

FEES - GENERAL

(a) Payment of Fees. As authorized by § 1930 of title 28 of the United States Code, the clerk must collect filing and other fees as prescribed by the Judicial Conference of the United States. All papers filed with the court must be accompanied by the appropriate fee. Fees may be paid in cash, money order, cashier's check, credit card, electronic funds transfers approved by the clerk, or a check drawn on the account of the filing attorney made payable to "Clerk, U.S. Bankruptcy Court." Checks from debtors will not be accepted.

(b) Dishonored Payments. If a payor's check is dishonored, or if a credit card payment or electronic funds transfer that was initially accepted is rejected, the payor's name will be placed on the court's dishonored payment register for a period of 3 years. A payor whose name appears on the register will have check, credit card, or electronic funds transfer privileges revoked and must pay all fees in cash, money order, or cashier's check. The payor will also be required to pay the dishonored check fee or any other related fee authorized by the Judicial Conference of the United States. A payor's name may be removed from the register upon presentation to the clerk of a letter from the drawee bank or credit card provider indicating that the check was dishonored or credit card payment or electronic funds transfer rejected due to bank or provider error. Alternatively, a payor's check, credit card, or electronic funds transfer privileges will be reinstated upon posting an appropriate bond with the court. The payor's name

will be removed from the court's dishonored payment register after 1 year of posting bond if the payor has not tendered any checks during that time that have been dishonored and if all credit card payments and electronic funds transfers have cleared.

(c) **Application for Waiver of Chapter 7 Filing Fee**. A chapter 7 debtor seeking a fee waiver under 28 U.S.C. § 1930(f) must file a fee waiver using Official Form 3B. The court may grant, deny, or set the fee waiver application for hearing. If the court denies the fee waiver application, notice will be given to the debtor giving the debtor 14 days after the notice is sent to pay the filing fee in full, submit an application to pay in installments, or to request a hearing. The clerk will enter an order dismissing the case if the debtor fails to act within the 14 days. If a hearing is requested and granted, the court will schedule a hearing with 14 days' notice to the United States trustee, panel trustee, and the debtor. The clerk will enter an order dismissing the case if the debtor fails to appear at the scheduled hearing. If a hearing is requested and denied, the debtor has 1~~0~~4 days to pay the filing fee in full, submit an application to pay in installments, or appeal, or the clerk will enter an order dismissing the case. If an order denying a fee waiver application is appealed and affirmed, the debtor has 14 days to pay the filing fee or submit an application to pay in installments, or the clerk will enter an order dismissing the case.

L.R. 6007-1:

Title: Title to this Rule has not changed.
Text: The revision to this Rule is technical.

RULE 6007-1

ABANDONMENT

A Request for Abandonment and Proposed Abandonment may be filed by any party in interest in the form attached to these Local Rules as Local Bankruptcy Form 6007-1. After review, the chapter 7 trustee may electronically endorse the Proposed Abandonment. If the trustee endorses the Proposed Abandonment, the requesting party may file and serve a Notice of Proposed Abandonment upon all interested parties in the form attached to these Local Rules as Local Bankruptcy Form 6007-1-A. If the trustee fails to endorses the Proposed Abandonment, the requesting party may not file or serve a Notice of Proposed Abandonment. If no objections to the Proposed Abandonment are filed by the objection deadline set out in the Notice of Proposed Abandonment, the requesting party may file a Notice of Abandonment in the form attached to these Local Rules as Local Bankruptcy Form 6007-1-B. If the trustee endorses the Notice of Abandonment, the property identified in the Notice of Abandonment will thereby be abandoned and no longer be property of the bankruptcy estate. Should the trustee fail to endorse the Proposed Abandonment or the Notice of Abandonment as requested, the property shall remain property of the Estate.

COMMENT(2013)

Amendment to this rule is necessitated by the Tenth Circuit Court of Appeals decision in *In re Cook (Cook v. Wells Fargo Bank, N.A.)* 2013 WL 1297590 (10th Cir. 2013). The rule provides a streamlined process for a party in interest to obtain an abandonment of property of the bankruptcy estate. The rule permits a party in interest to prepare and file appropriate pleadings,

and with the trustee's consent, provide notice of the trustee's intent to abandon to parties in interest. After proper notice to parties in interest, and in the absence of objection, the trustee may abandon the property.

L.R. 7026-1:

Title: Title to this Rule has not changed.
Text: This rule has been amended to clarify that counsel must in good faith attempt to resolve discovery disputes before filing a motion under Fed. R. Bankr. P. 7026 or 7037. In addition, the moving attorney must certify in writing that they have in good faith attempted to resolve discovery disputes. If the moving attorney fails to certify in writing that he or she has in good faith attempt to resolve discovery disputes, or if Court determines that the moving party has not attempted in good faith to resolve the discovery disputes, the Court may deny the motion. The motion to limit or compel discovery must be accompanied by a copy of the discovery request, any response to the request to which objection is made, and a succinct statement, separately for each request and objection, summarizing why discovery should be limited or why the response received was inadequate.

RULE 7026-1

DISCOVERY - GENERAL

(a) Attorney Managed Discovery. ~~To curtail undue delay in the administration of justice, the court may refuse to hear any and all~~The court will not entertain any motions related to discovery under Fed. R. Bankr. P. 7026 through 7037 ~~relevant to the claim or defense of any party,~~ unless the moving attorney ~~first advises the court in writing that, having conducted personal consultation and having attempted in good faith to resolve differences,~~has in good faith conferred, or attempted to confer, with the opposing attorney and the parties are unable to reach an ~~accord on matters to be heard. The statement must also recite~~agreement on the matters set forth in the motion. The moving attorney must certify in writing, at the time of filing the motion, that he has complied with this requirement and must state the date, time, and place of the ~~consultation~~conference or attempts to confer, and the names of all participating parties or attorneys. The court may deny the motion if it determines that the moving attorney has not in good faith conferred, or attempted to confer, with the opposing attorney.

(b) Court Managed Discovery. ~~Upon motion of any party and for good cause, the court may order discovery relevant to the subject matter of the case or proceeding~~Motions to limit discovery under Fed. R. Bankr. P. 7026 or to compel discovery under Fed. R. Bankr. P. 7037 must be accompanied by a copy of the discovery request, any response to the request to which objection is made, and a succinct statement summarizing separately for each request and objection, why discovery should be limited or why the response received was inadequate.

(c) Form of Certain Discovery Documents. Parties responding to interrogatories pursuant to Fed. R. Civ. P. 33 and Fed. R. Bankr. P. 7033; requests for production of documents or things pursuant to Fed. R. Civ. P. 34 and Fed. R. Bankr. P. 7034; or requests for admission pursuant to Fed. R. Civ. P. 36 and Fed. R. Bankr. P. 7036 shall repeat in full each such interrogatory or request to which the response is made. The parties also shall number sequentially each interrogatory or request to which response is made.

COMMENT (2014)

This rule has been amended to clarify that counsel must in good faith attempt to resolve discovery disputes before filing a motion under Fed. R. Bankr. P. 7026 or 7037. In addition, the moving attorney must certify in writing that he or she has in good faith attempted to resolve discovery disputes. If the moving attorney fails to certify in writing that he or she has in good faith attempted to resolve discovery disputes, or if the Court determines that the moving party has not attempted in good faith to resolve the discovery disputes, the Court may deny the motion. The motion to limit or compel discovery must be accompanied by a copy of the discovery request, any response to the request to which objection is made, and a succinct statement summarizing separately for each request and objection, why discovery should be limited or why the response received was inadequate.

L.R. 7055-1:

Title: Title to this Rule has changed.
Text: This rule has been amended to clarify procedures for entry of default and default judgments. If the complaint seeks relief under § 523 or § 727, plaintiff must set hearing to the application for default judgment to be heard. Otherwise, no hearing on the application is required but if the party against whom judgment is sought has appeared in the proceeding, the party seeking default judgment shall give notice of the application to the attorney for that party.

RULE 7055-1

DEFAULT ~~- FAILURE TO PROSECUTE~~JUDGMENT

(a) Default Certificate. A party applying for default judgment under Fed. R. Bankr. P. 7055 must, at or prior to the time of filing the application, file a certificate of default as to the party in default. If the proposed certificate of default is accompanied by an affidavit showing that the party against whom judgment is sought has failed to plead or otherwise defend and if service of the summons and complaint appears to be proper, the clerk shall enter the party's default.

(b) Judgment by Default Entered by Clerk. A proposed judgment by default filed in accordance with Fed. R. Bankr. P. 7055 for signature and entry by the clerk in accordance with that rule and Local Rule 5003-1(a)(1) must be accompanied by a declaration that the person against whom judgment is sought is neither an infant or an incompetent person, nor in the armed forces within the meaning of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. § 520(1).

(~~b~~c) Judgment by Default Entered by Court. In all other cases, the party entitled to ~~a~~ judgment ~~by default~~ must apply to the court in accordance with Fed. R. Bankr. P. 7055. ~~Upon application of any party, the clerk may make and file a certificate of default as to any party in default, for the convenience of the court or of the party applying for the default judgment. When~~

~~the application is made to the court, unless the court orders otherwise, the scheduling clerk, upon request of the movant, must schedule an evidentiary hearing.~~ If the party against whom judgment ~~by default~~ is sought has appeared in the proceeding, the party seeking ~~the~~ default judgment shall give notice of the ~~hearing~~application for default judgment to the attorney for the party as required by Fed. R. Bankr. P. 7055. ~~With leave of the court, proof may be submitted by declaration, but the court may order further hearing at its discretion.~~

~~(c~~If the party entitled to judgment is seeking relief under § 523 or § 727 of the Code, the applicant must schedule a hearing on the application and shall give notice of the hearing to the debtor and the debtor's attorney.

(d) Clerk's Action Reviewable. The actions of the clerk under this rule may be reviewed, suspended, altered or rescinded by the court.

COMMENT (2014)

This rule has been amended to clarify procedures for entry of default and default judgments. If the complaint seeks relief under § 523 or § 727, plaintiff must schedule a hearing on the application for default judgment. Otherwise, no hearing on the application is required but if the party against whom judgment is sought has appeared in the proceeding, the party seeking default judgment shall give notice of the application to the attorney for that party.

L.R. 7056-1:

Title: Title to this Rule has not changed.
Text: The revisions to this Rule are technical.

RULE 7056-1

SUMMARY JUDGMENT

(a) Summary Judgment Motions and Memoranda. This rule applies to motions for summary judgment in contested matters under Fed. R. Bankr. P. 9014 and adversary proceedings. A motion for summary judgment and the supporting memorandum must be clearly identified in the case caption and introduction.

(b) Motion: Form, Elements and Undisputed Material Facts; and Background Facts Statement. The movant must file the motion for summary judgment in compliance with Local Rule 5005-2 within any applicable time limitation, unless the court orders otherwise. The motion and any supporting memorandum must be contained in one document. A motion for summary judgment must include the following sections:

(1) ~~A~~an introduction summarizing why summary judgment should be granted;

(2) ~~A~~a section entitled "Statement of Elements and Undisputed Material Facts" that contains the following:

(~~a~~A) ~~E~~each legal element required to prevail on the motion;

(~~b~~B) ~~C~~citation to legal authority supporting each stated element (without argument);

(~~c~~C) ~~U~~under each element, a concise statement of the material facts necessary to meet that element as to which the moving party contends no genuine

issue exists. Only those facts that entitle the moving party to judgment as a matter of law should be included in this section. Each asserted fact must be presented in an individually numbered paragraph that cites with particularity the evidence in the record supporting each factual assertion (e.g., deposition transcript, affidavit, declaration, and other documents)~~.~~:

(3) An argument section explaining why, under the applicable legal principles the asserted undisputed facts entitle the party to summary judgment.

The motion may, but need not, include a separate background section that contains a concise statement of facts, whether disputed or not, for the limited purpose of providing background and context for the case, dispute, and motion. This section may follow the introduction and may, but need not, cite to evidentiary support. The memorandum may also provide a concise conclusion.

(c) Notice of the Motion and Hearing. The movant shall obtain and set an appropriate hearing date with the court scheduling clerk. A Notice of Summary Judgment Motion and Notice of Hearing shall be filed in compliance with Local Rule 5005-2. A Notice of Summary Judgment Motion and Notice of Hearing shall~~;~~:

(1) be in substantial conformity with Local Bankruptcy Form 9013-1, with alterations as may be appropriate to comply with these Local Rules;

(2) state a specific objection deadline that is at least 21 days after service of the Notice of Summary Judgment Motion and Notice of Hearing.

(d) Memorandum in Opposition; Response to Elements and Facts; and Background Facts. A party filing a memorandum in opposition to a motion for summary judgment must file its opposition in compliance with Local Rule 5005-2 by the date stated in the Notice of Summary

Judgment and Notice of Hearing. A memorandum in opposition to a motion for summary judgment must include the following sections:

(1) ~~A~~an introduction summarizing why summary judgment should be denied;

(2) ~~A~~a section entitled "Response to Statement of Elements and Undisputed Material Facts" that contains the following:

(~~a~~A) ~~A~~a concise response to each legal element stated by the moving party. If the non-moving party agrees with a stated element, state "agreed" for that element. If the party disagrees with a stated element, state what the party believes is the correct element and provide citation to legal authority supporting the party's contention (without argument). If the non-moving party agrees that any stated element has been met, so state~~.~~;

(~~b~~B) ~~A~~a response to each stated material fact. Under each element that a party disputes as having been met, restate each numbered paragraph from the statement of material facts provided in support of that element in the motion. If a fact is undisputed, so state. If a fact is disputed, so state and concisely describe and cite with particularity the evidence on which the non-moving party relies to dispute that fact (without legal argument)~~.~~;

(~~c~~C) ~~A~~a statement of any additional material facts, if applicable. If additional material facts are relevant to show that an element has not been met or that there is a genuine issue for trial, state each such fact separately in an individually numbered paragraph that cites with particularity the evidence in the record supporting each factual assertion (e.g., deposition transcript, affidavit, declaration, and other documents)~~.~~; and

(~~d~~D) ~~A~~a statement of additional elements and material facts, if applicable. If there are additional legal elements not stated by the moving party that the non-moving party contends preclude summary judgment, state each such element along with citation to legal authority that supports the element (without argument) and any additional material facts that create a genuine issue for trial on these elements. Each additional asserted fact must be presented in an individually numbered paragraph that cites with particularity the evidence in the record supporting each factual assertion (e.g., deposition transcript, affidavit, declaration, and other documents).

(3) An argument section explaining why under the applicable legal principles, summary judgment should be denied.

The memorandum in opposition may, but need not, include a separate background section that contains a concise statement of facts, whether disputed or not, for the limited purpose of providing background and context for the case, dispute, and motion. This section may follow the introduction and may, but need not, cite to evidentiary support. The memorandum may also provide a concise conclusion.

(e) **Reply Memorandum**. The moving party may file a reply memorandum no later than 7 days after the objection is served and in no case less that 4 days before the date set for hearing. In the reply, a moving party may only cite additional evidence not previously cited in the opening memorandum to rebut a claim that a material fact is in dispute. Otherwise, no additional evidence may be cited in the reply memorandum, and if cited, the court will disregard it.

(f) **A Motion May Not Be Made in a Response or Reply Memorandum**. No motion may be included in a memorandum in opposition or reply memorandum. Such a motion must be made in a separate document.

(g) **Length of Motion, Memorandum in Opposition, and Reply Memorandum**. A motion for summary judgment or a memorandum opposing a motion for summary judgment must not exceed 25 pages in length, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. A reply memorandum must not exceed 10 pages, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits.

(h) **Overlength Memoranda**. An order of the court must be obtained to file a motion or memorandum that exceeds the page limitations set forth in subsection (g) of this rule. Such a motion may be made to the court ex parte, and must include a statement of why additional pages are needed and the number of pages. The court will approve the request only for good cause shown. If authorized, an overlength memorandum must contain, in addition to the elements and sections otherwise required by this rule, a table of contents, with page references, setting forth the titles or headings of each section and subsection;

(i) **Citations of Unpublished Decisions**. A memorandum may cite an unpublished decision from this district, but only if the decision is furnished to the court and parties when the memorandum is filed. Unpublished opinions from other districts may not be cited as authority. Unpublished decisions of this court should be cited as follows: *Smith v. Jones* (In re Smith), Ch. 7 Case No. 93B-22404, Adv. No. 94PC-2302, slip op. at 10 (Bankr. D. Ut. March 1, 1995). The clerk maintains an index and copies of selected, unpublished opinions from this district.

(j) **Citations of Supplemental Authority**. When pertinent and significant authorities come to the attention of a party after a memorandum has been filed, or after oral argument but before

the court renders a decision, a party may advise the court by letter, with a copy to all parties, setting forth the citations. The letter must, without argument, state the reason for the supplemental citations and include a reference either to the page of the memorandum or to a point argued orally to which the citations pertain. Any response must be promptly made and similarly limited.

(k) Supporting Exhibits to Memoranda. All evidence offered in support of or opposition to motions for summary judgment must be submitted in a separately filed appendix with a cover page index. The index must list each exhibit by number, include a description or title and, if the exhibit is a document, provide the source of the document. A responding party may object as provided in Fed. R. Civ. P. 56(c)(2). Upon failure of any responding party to object the court may assume for purposes of summary judgment only that the evidence proffered would be admissible at trial.

(l) Certificate of Service. Unless otherwise ordered, a party must file a certificate of service of the Summary Judgment Motion, the Notice of Summary Judgment Motion and Notice of Hearing and all subsequent pleadings . The certificate must be filed with the motion and notice, endorsed upon the motion, notice and subsequent pleading, or filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The certificate must be in substantial conformity with Local Bankruptcy Form 9013-3.

(m) Failure to Respond. Failure to respond timely to a motion for summary judgment may result in the court's granting the motion without further notice.

(n) Granting Relief Without a Hearing. The court may, but is not required to, strike the hearing and grant the relief requested in a motion for summary judgment without a hearing if there has been no memorandum in opposition to the motion filed or served on the movant. The court

may, but is not required to, strike the hearing and enter an order disposing of the summary judgment motion if the court determines that oral argument is not necessary or helpful.

(o) **Time for Striking Hearings**. A request to strike a hearing should be made at least two business days prior to the hearing.

COMMENT (2013)

This rule sets forth procedures specific to motions for summary judgment in contested matters and adversary proceedings. The rule adopts the procedures of the U.S. District Court of Utah but clarifies that notice of a summary judgment motion and an objection deadline must be served on adverse parties. The purpose of the Statement of Elements and Undisputed Material Facts and the corresponding section in the memorandum in opposition to a motion for summary judgment is to distill the relevant legal issues and material facts for the court while reserving arguments for the respective argument sections of the motion and opposition memorandum.

L.R. 9011-2:

Title: Title to this Rule has not changed.
Text: The revision to this Rule is technical.

RULE 9011-2

PARTIES APPEARING WITHOUT AN ATTORNEY

(a) Attorney Appearance Required. A corporation, partnership, limited liability company, trust, unincorporated association, or other party which is not an individual may not file a petition or otherwise appear without an attorney in any case or proceeding. Failure to comply with this rule is grounds for dismissal of a case or proceeding, conversion of a case, appointment of a trustee or examiner, judgment by default, striking any pleading, or other appropriate sanctions.

(b) Rules and Standards Applicable to Individuals Appearing Without an Attorney. An individual appearing without an attorney will be expected to be familiar with and must comply with (A) these Local Rules; (B) unless otherwise provided, the Utah Rules of Professional Conduct as revised and amended; (C) appropriate federal rules and statutes that govern the action in which such individual is involved; and (D) the decisions of this court interpreting those rules and statutes. Failure to comply with this rule may be grounds for dismissal of a case or proceeding, conversion of a case, appointment of a trustee or examiner, judgment by default, or other appropriate sanctions.

L.R. 9013-1:

Title: Title to this Rule has not changed.
Text: Subsection (c)(2) has been amended to clarify the procedure for service of a motion. Subsection (d)(6) has been amended to clarify the procedures for service of the notice of hearing. Other revisions to this Rule are technical.

RULE 9013-1

MOTION PRACTICE - SET HEARING

(a) **Scope of Rule**. This rule applies to motions in bankruptcy cases and adversary proceedings. The term "motion" means application, request, objection to claim, or other proceeding in the nature of a motion or contested matter in which a party in interest seeks an order from or determination by the court. Motions for summary judgment are not governed by this rule, but are governed by Local Rule 7056-1. For purposes of this rule, the term "motion" does not refer to a summons, complaint, appeal, motion for summary judgment, or an ex parte motion.

(b) **Applicability**. In bankruptcy cases and adversary proceedings, whenever the movant seeks an order from or determination by the court and the movant believes the motion will be opposed, the procedures set forth in this rule should be used.

(c) **Motions**. The movant must file the motion ~~with the clerk~~ in compliance with Local Rule 5005-2 within any applicable time limitation, including the time limitations of these rules, unless the court orders otherwise.

(1) No Separate Supporting Memorandum for a Written Motion. The motion and any supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include the following:

~~a~~(A) an initial separate section stating succinctly the precise relief sought and the specific grounds for the motion; and

~~b~~(B) one or more additional sections including a recitation of relevant facts, supporting authority, and argument, and a concise statement of each basis supporting the motion with citations to applicable and controlling legal authority.

(2) The moving party shall serve the motion on those entities specified by Fed. R. Bank. P. 9013.

(~~2~~3) Failure to Comply with Requirements for Motions. Failure to comply with the requirements of subsection (c)(1) may result in sanctions, including (a) returning the motion to counsel for resubmission in accordance with this rule, (b) denial of the motion, or (c) any other sanction deemed appropriate by the court.

(d) Notice of Motion and Hearing. The movant shall obtain and set an appropriate hearing date with the court scheduling clerk. A Notice of Motion and Notice of Hearing shall be filed in original form only together with a certificate of service evidencing compliance with the applicable service requirements. A Notice of Motion and Notice of Hearing shall:

(1) ~~B~~be in substantial conformity with Local Bankruptcy Form 9013-1, Notice of Motion and Notice of Hearing with alterations as may be appropriate to comply with these Local Rules;

(2) contain a specific statement of the relief requested or action intended in sufficient detail to meaningfully inform the parties of the intended action or relief requested or, if the motion is served with the notice, refer to the motion to describe the relief requested;

(3) set the last date on which an interested party may file an objection to the

motion. The identified date must be based on the time period fixed by the Federal Rules of Bankruptcy Procedure or by Local Rule 9006-1(b), as appropriate;

(4) include a statement that the hearing may be stricken and relief requested may be granted without a hearing unless an objection is timely filed.;

(5) Iinclude a statement that the objecting party must attend the hearing and that failure to attend the hearing will be deemed a waiver or the objection.; and

(6) Bbe givenserved by the movant to all parties in interest at their addresses of record, and to such other parties ason the case trustee, debtor, debtor-in-possession, those entities specified in these rules or the Federal Rules of Bankruptcy Procedure may specify or, and other parties as the court may direct.

(e) Responses to Motions and Reply Memoranda. A party responding to a motion must file its response in compliance with Local Rule 5005-2 by the date identified in the notice.

(1) No Separate Supporting Memorandum for a Response. The response and any supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include one or more sections including a recitation of relevant facts, a concise statement of each basis opposing the motion with citations to applicable and controlling legal authority, and an argument.

(2) Reply Memorandum. A reply memorandum is limited to rebuttal of matters raised in the response.

(3) Limitation on Memoranda Considered. Unless otherwise ordered, the court will consider only motions, responses filed by parties in interest, and reply memoranda filed by the movant(s).

(4) A Motion May Not Be Made in a Response or Reply Memorandum. No

motion may be included in a response or reply memorandum. Such a motion must be made in a separate document.

(f) **Granting Relief Without a Hearing**. The court may, but is not required to, strike the hearing and grant the relief requested in a motion without a hearing if there has been no opposition to the motion filed or served on the movant.

(g) **Time for Striking Hearings**. A request to strike a hearing should be made at least two business days prior to the hearing.

(h) **Length of Motion and Response**. A motion other than for summary judgment or a response to a motion other than for summary judgment must not exceed 15 pages, exclusive of face sheet, table of contents, statements of issues and facts, and exhibits. The procedure for filing an overlength memorandum is set forth in subsection (k) of this rule.

(i) **Citations of Unpublished Decisions**. A memorandum may cite an unpublished decision from this district, but only if the decision is furnished to the court and parties when the memorandum is filed. Unpublished opinions from other districts may not be cited as authority. Unpublished decisions of this court should be cited as follows: *Smith v. Jones* (In re Smith), Ch. ~~7~~ 7 Case No. 93B-02404, Adv. No. 94PC-2302, slip op. at 10 (Bankr. D. Ut. March 1, 1995). The clerk maintains an index and copies of selected, unpublished opinions from this district.

(j) **Citations of Supplemental Authority**. When pertinent and significant authorities come to the attention of a party after a memorandum has been filed, or after oral argument but before the court renders a decision, a party may advise the court by letter, with a copy to all parties, setting forth the citations. The letter must, without argument, state the reason for the supplemental citations and include a reference either to the page of the memorandum or to a point argued orally to which the citations pertain. Any response must be promptly made and

similarly limited.

(k) **Overlength Memoranda**. An order of the court must be obtained to file a memorandum that exceeds the page limitations set forth in subsection (h) of this rule. Such a motion may be made to the court ex parte, and must include a statement of why additional pages are needed and the number of pages. The court will approve the request only for good cause shown. Authorized, overlength memoranda must contain the following:

(1) a table of contents, with page references, setting forth the titles or headings of each section and subsection;

(2) a statement of the issues related to the precise relief sought;

(3) a concise statement of facts, with appropriate references to the record, relevant to the issues concerning the precise relief sought;

(4) argument, proceeded by a summary, containing the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on; and

(5) a short conclusion stating the precise relief sought.

(l) **Certificate of Service**. Unless otherwise ordered, a party must file a certificate of service of a motion or other paper required to be served on other parties. The certificate must be filed with the motion or paper, endorsed upon the motion or paper, or filed separately as soon as possible and in any event before any action based upon the service is requested or taken by the court. The certificate must be in substantial conformity with Local Bankruptcy Form 9013-3.

L.R. 9013-2:

Title: Title to this Rule has not changed.
Text: Subsection (c) has been amended to be consistent with L.R. 9013-1. Other revisions to this Rule are technical.

RULE ~~9013-2~~9013-2

MOTION PRACTICE - OPPORTUNITY FOR HEARING

(a) **Scope of Rule**. This rule applies to motions in bankruptcy cases. The term "motion" means application, request, objection to claim, or other proceeding in the nature of a motion in which a party in interest seeks an order from or determination by the court. Motions for summary judgment are not governed by this ~~R~~rule, but are governed by Local Rule 7056-1. For purposes of this ~~R~~rule, the term "motion" does not refer to a summons, complaint, appeal, motion for summary judgment, or an ex parte motion.

(b) **Applicability**. Except as set forth herein, whenever the Bankruptcy Code or the Federal Rules of Bankruptcy Procedure provide that an order may be entered or an action may be taken after "notice and a hearing," or a similar phrase, if the movant believes there will be no objections to the motion, the following procedure should be used. This rule does not apply:

(1) whenever the court directs otherwise;

(2) to any pleadings, motions, or notices in adversary proceedings under Part VII of the Federal Rules of Bankruptcy Procedure;

(3) to hearings set under 11 U.S.C. § 1125;

(4) to hearings on confirmation of a plan pursuant to chapter 9, 11 or 12;

(5) applications for compensation that exceed $~~5~~10,000.00;

(6) as otherwise provided by these Local Rules or the Federal Rules of Bankruptcy Procedure.

(c) Motions. The movant must file the motion in compliance with ~~the clerk~~Local Rule 5005-2 within any applicable time limitation, including the time limitations of these ~~Local~~ Rrules, unless the court orders otherwise. ~~A motion must set forth succinctly, without argument, the specific relief sought~~

(1) No Separate Supporting Memorandum for a Written Motion. The motion and any supporting memorandum must be contained in one document, except as otherwise allowed by this rule. The document must include the following:

(A) an initial separate section stating succinctly the precise relief sought and the specific grounds for the motion; and

(B) one or more additional sections including a recitation of relevant facts, supporting authority, and argument, and a concise statement of each basis supporting the motion with citations to applicable and controlling legal authority.

(2) The moving party shall serve the motion on those entities specified by Fed. R. Bank. P. 9013.

(3) Failure to Comply with Requirements for Motions. Failure to comply with the requirements of subsection (c)(1) may result in sanctions, including (a) returning the motion to counsel for resubmission in accordance with this rule, (b) denial of the motion, or (c) any other sanction deemed appropriate by the court.

(d) Notice of Motion and Notice of Opportunity for Hearing. The movant may reserve a time for, but not set, a hearing on the court's calendar. A Notice of Motion and ~~and~~ Notice of Opportunity for Hearing shall be filed in original form only together with a certificate

of service evidencing compliance with the applicable service requirements. A Notice of Motion and Notice of Opportunity for Hearing shall:

(1) be in substantial conformity Local Bankruptcy Form 9013-2 Notice of Motion and Opportunity for Hearing;

(2) contain a specific statement of the relief requested or action intended in sufficient detail to meaningfully inform the parties of the relief requested or intended action or, if the motion is served with the notice, refer to the motion to describe the relief requested;

(3) set the last date on which an interested party may file an objection to the motion. The identified date must be based on the time period fixed by the Federal Rules of Bankruptcy Procedure or by Local Rule 9006-1(b), as appropriate;

(4) include a statement that the relief requested may be granted without a hearing unless an objection is timely filed;

(5) include a statement that the objecting party must attend the hearing and that failure to attend the hearing will be deemed a waiver or the objection; and

(6) be ~~given~~served by the movant ~~to all parties in interest at their addresses of record, and to such other parties as~~on the case trustee, debtor, debtor-in-possession, and those entities specified in these rules or the Federal Rules of Bankruptcy Procedure ~~may specify or~~, and other parties as the court may direct~~;~~.

(e) **Objection**. Any party opposing the motion must file an Objection before the deadline stated in the Notice of Motion and Notice of Opportunity for Hearing. The Objection shall be filed with the court in original form only, and a copy thereof shall be served upon counsel for the movant on or before the date set forth in the notice. Service may be by mail and

shall be complete upon mailing. Objections for hearing shall clearly specify the grounds upon which they are based. General objections will not be considered. Failure of a party to timely file written opposition will be deemed a waiver of any opposition to granting of the motion.

(f) Court Action on Motions.

(1) Contested Matters. Motions for which an opposition has been filed shall be set for hearing ~~at~~on the date and the time~~, date~~ and place set forth in the Notice of Motion and Notice of Opportunity for Hearing. No further notice of the date, time, and place of hearing is required to be given.

(2) Non-Contested Matters. The court may, but is not required to grant the relief requested in a motion without a hearing if there has been no opposition to the motion filed or served on the movant.

(3) Defective o~~f~~r Deficient Motions. The ~~C~~court may deny, sua sponte, any defective or deficient motion, or a motion, the notice of which is subject to the provisions of this ~~R~~rule and which notice does not comply with this ~~R~~rule. Any such denial shall be without prejudice.

(4) Court Set Hearing. The court may set for hearing, sua sponte, any motion.

(~~4~~5) Non-Prosecuted Motions. At the time the bankruptcy case is closed pursuant to 350, 707, 930, 1112, 1208, or 1307 of title 11, all pending motions which have not been presented to the Court for disposition shall be deemed abandoned for want of prosecution.~~.~~ Any such denial shall be without prejudice.

(g) Applicable provisions of Local Rule 9013-1. Paragraphs (h) through (l) of Local Rule 9013-1 are also applicable to this rule.

L.R. 9021-1:

Title: Title to this Rule has not changed.
Text: Revisions to this Rule are technical; Local Form referenced in subsection (e) has been amended from Local Form 9022-1 to Local Form 9021-1.

RULE 9021-1

PREPARATION AND SUBMISSION OF JUDGMENT OR ORDER

(a) **Separate Document Requirement**. Proposed orders must be prepared and submitted as separate documents, not attached to or included in motions or other papers filed with the court.

(b) **Review and Approval Procedures.**

(1) Preparation, Service and Approval. Unless otherwise provided herein or directed by the court, each proposed order and judgment should be prepared in writing and filed with the court by the attorney for the prevailing party. Objections to the proposed order or judgment must be filed within 7 days from the date the proposed order or judgment is filed.

(2) Uncontested Matters and Orders Submitted in Open Court. Unless otherwise directed by the court, the requirements set forth in subsection (1) do not apply to

(A) any proposed order or judgment on a matter that ~~does~~has been properly not ~~require a hearing~~iced and is uncontested, or

(B) any proposed order or judgment submitted in open court at the time of the hearing on the matter to which the proposed order or judgment

applies.

(c) Entry of Court Orders. A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

All orders, decrees, judgments, and proceedings of the court, including orders submitted in open court, will be filed in accordance with these Local Rules, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order that has been electronically signed by a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

(d) Judgment Based Upon a Written Instrument. Unless otherwise ordered by the court, a judgment based upon a written instrument must be accompanied by the original instrument or a certified copy which must be filed as an exhibit in the case or proceeding at the time judgment is entered. The instrument must be marked as having been merged into the judgment and show the docket number of the case or proceeding. The instrument may be returned to the party filing it upon order of court only as in the case of other exhibits.

(e) Papers to Accompany Proposed Judgments, Orders or Notices of Appeal. A party filing a proposed judgment or order shall also ~~file~~attach to the order a designation of parties to receive notice pursuant to Fed. R. Bankr. P. 9022(a) for use by the clerk. The designation must be in substantial conformity with~~,~~ Local Bankruptcy Form 902~~2~~1-1.