

LOCAL RULES OF PRACTICE
OF THE
UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF UTAH



Frank E. Moss United States Courthouse
350 South Main Street
Salt Lake City, Utah 84101
(Effective date of December 13, 2019)



UNITED STATES BANKRUPTCY COURT District of Utah

Honorable R. Kimball Mosier, Chief Judge • David A. Sime, Clerk of Court

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RULE 1001-1
LOCAL RULES – GENERAL

(a) **Scope and Citation.** Title 11 (“the Code”) and portions of titles 18 and 28 of the United States Code, the Federal Rules of Bankruptcy Procedure (“Fed. R. Bankr. P.”), the Rules of Practice of the United States District Court for the District of Utah (“DUCivR”), these Local Rules of Practice of the United States Bankruptcy Court for the District of Utah (“Local Rules”), and all standing orders of the court issued under Local Rule 1001-2(a), govern cases, proceedings, and practice before the United States Bankruptcy Court for the District of Utah (“Court”). These Local Rules should be cited as “Bankr. D. Ut. LBR_____” or “Local Rule_____.”

(b) **Availability.** Copies of these Local Rules, with appendices, are available from the court’s website, www.utb.uscourts.gov, and from the clerk's office for a reasonable charge to be determined by the clerk. Upon admission to the bar of the United States District Court for the District of Utah, each attorney will be provided a copy of these Local Rules, with appendices, in force at the time of admission. Attorneys admitted pursuant to [Local Rule 2090-1\(b\)](#) and individuals appearing without an attorney will be provided a copy of these Local Rules upon request and payment to the clerk of the appropriate fee.

(c) **Amendments to the Local Rules.** The court may amend these Local Rules subject to DUCivR 83-7.6. The court will provide notice of proposed amendments and, after a comment period to be determined by the court, notice of the effective date of the approved amendments.

(d) **Definitions.** As used in these Local Rules, the following words have the meaning indicated:

<u>Word</u>	<u>Meaning</u>
“ECF Filer”	A person who is required to or has qualified to file papers using the courts Electronic Case Filing system (“ECF”) (see Local Rule 5005-2).
“file”	Means to submit a paper or document with the Utah Bankruptcy Court in accordance with the procedures outlined in these Local Rules.
“paper or document”	Means pleadings, complaints, memoranda, exhibits, schedules, statements, affidavits, proofs of claim, or any other written or printed document required by or filed with the bankruptcy court or provided to a case

	trustee or the United States Trustee.
“should”	Synonymous with “shall” and denotes a mandatory provision.
“will”	Expresses a required future action or event.
“section or §”	Denotes a reference to Title 11, U.S. Bankruptcy Code, unless otherwise indicated.
§ 341 Meeting	Means the meeting of creditors required by 11 U.S.C. § 341.

RULE 1001-2

LOCAL RULES - STANDING ORDERS AND ELECTRONIC PROTOCOLS

(a) **Issuance and Availability of Standing Orders.** The court may issue standing orders to govern practice and procedure before this court that supplement these Local Rules with the approval of the Chief Judge of the District Court. All individuals entering an appearance before this court should be familiar with the standing orders. Copies of all current standing orders should be maintained by the clerk, and made available to the public for inspection and copying from the court's website, www.utb.uscourts.gov, and from the clerk's office.

(b) **Publication of Standing Orders.** When a new standing order is issued, the clerk should post the standing order on the court's website, www.utb.uscourts.gov, email a copy to all ECF Filers, and post a copy outside the clerk's office for at least 3 months.

(c) **Electronic Filing Protocols.** The court may from time to time post usage protocols related to electronic filing to assist ECF Filers. The court's posted usage protocols do not have the effect of standing orders. All ECF Filers should be familiar with the electronic filing protocols. Copies of all current electronic filing protocols should be maintained by the clerk, and made available to the public for inspection and copying from the court's website, www.utb.uscourts.gov, and from the clerk's office. When appropriate, changes to Electronic Filing Protocols will be emailed to all ECF Filers.

RULE 1007-1
LISTS, SCHEDULES, STATEMENTS, AND CERTIFICATIONS

(a) **Petitions, Schedules, Statements, and Plans.**

(1) Procedures for Dismissal of Chapter 7, 11, or 12 Cases for Failure to Timely File Certain Papers. If a debtor does not timely file certain papers identified in subsections A, B, and C below, the case will be dismissed using the following procedure unless otherwise recommended by the United States Trustee or case trustee or unless otherwise ordered by the court. The United States Trustee or case trustee must file a § 341 Meeting Report (Report) indicating the failure to comply and serve it on the debtor and 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 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 dismissal is not filed within 21 days after the Report is served, the clerk must enter an order dismissing the case. If an objection is timely filed, the dismissal is stayed. The objecting party must set a hearing and give notice to parties in interest as provided in Fed. R. Bankr. P. 2002(a). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection is not held within 42 days after the objection is filed.

(A) Voluntary Case in Which the Debtor is Not an Individual. The court may dismiss a voluntary case in which the debtor is not an individual, except a case that has been converted from a chapter 11 case to a chapter 7 case, if the debtor fails to file a list of creditors' names and addresses under Local Rule 1007-1(b), a list of equity security holders, the reports required by Fed. R. Bankr. P. 2015.3, or documents required by § 521(a)(1) or § 1116(1), within the time provided by Fed. R. Bankr. P. 1007 or any extension granted under § 1116(3).

(B) Voluntary Chapter 11 or 12 Case in Which the Debtor is an Individual. The court may dismiss a voluntary case if the debtor fails to file a list of creditors' names and addresses under Local Rule 1007-1(b), the reports required by Fed. R. Bankr. P. 2015.3, or documents required by § 521(a)(1) or § 1116(1), within the time provided by Fed. R. Bankr. P. 1007 or within any extension granted under § 1116(3).

(C) Voluntary Chapter 7 Case in Which the Debtor is an Individual. The court may dismiss a voluntary case, except a case that has been converted from a chapter 11 case to a chapter 7 case, if the debtor fails to file a list of creditors' names and addresses under Local Rule 1007-1(b), or documents required by § 521(a)(1) and Fed. R. Bank. P. 1007(b)(1) within the time provided by Fed. R. Bankr. P. 1007. However, nothing in this Rule shall alter the provisions for automatic dismissal of this case under § 521(i).

(2) Procedure for Dismissal of a Case under Chapter 13 for Failure to Timely File Certain Papers. The court may dismiss a case, except a case that has been converted from a chapter 7 case to a chapter 13 case, if the debtor fails to file a list of creditors' names and addresses under Local Rule 1007-1(b), or documents required by § 521(a)(1) and Fed. R. Bankr. P. 1007(b)(1) within the time required by Fed. R. Bankr. P. 1007(c), or a chapter 13 plan within the time provided by Fed. R. Bankr. P. 1007 and 3015. The procedures for dismissal on these grounds are set forth in Local Rule 2083-1(g). However, nothing in this rule or in Local Rule 2083-1(g) shall alter the provisions for automatic dismissal of the case under § 521(i).

However, a case shall not be automatically dismissed if there is a pending motion filed by the Chapter 13 trustee or a creditor under 11 U.S.C. § 109(g) or § 362(d)(4)(a) and/or (b) (i.e. "in rem" relief from stay). In such instance, the case shall remain open until the court has entered an order granting or denying such motion, or the motion has been withdrawn.

(b) List of Creditors and Equity Security Holders. The debtor may file with the petition, but must file no later than 2 days thereafter, the list required under Fed. R Bankr. P. 1007(a)(1) in a form designated by the clerk and, if applicable, an additional list of creditors holding claims under § 507(a)(1)(A) and (B), and a list of equity security holders, in the manner prescribed by the clerk's office. If the debtor files a list of creditors holding claims under § 507(a)(1)(A) and (B), the clerk may provide the notice specified in § 704(c)(1)(A) and (B) at least 20 days prior to the § 341 Meeting. The clerk may mail the notice provided by the trustee as specified in § 704(c)(1)(C) within 21 days after the debtor is granted a discharge under § 727.

(c) **Filing of Documents Following Conversion.** All lists, schedules, statements, and other documents filed prior to conversion of a case to another chapter shall be deemed filed in the converted case unless the court directs otherwise; however, if the trustee or the United States Trustee makes a written request after the entry of an order converting the case, the debtor shall file within 21 days after the date of such written request either: (i) a declaration under penalty of perjury that there have been no material changes to the lists, schedules, statements, and other documents filed prior to conversion, or (ii) amended lists, schedules, statements, and other documents reflecting such changes.

(d) **Compliance with § 109(h) (Credit Counseling).**

(1) **Section 109(h)(1): The Credit Counseling Certification.** The clerk must enter an order dismissing the case unless an individual debtor:

(A) certifies on Part 5 of the petition compliance with § 109(h)(1) and attaches to the petition the certificate of credit counseling required by § 521(b);

(B) certifies on Part 5 of the petition compliance with § 109(h)(1) but does not attach to the petition the credit counseling certificate, but then files the certificate within 14 days after the petition date;

(C) as set forth below, timely submits to the Court a satisfactory certification of exigent circumstances required by § 109(h)(3)(A); or

(D) obtains a court order that the debtor is not required to take the credit counseling briefing under § 109(h)(4).

(2) **Section 109(h)(3)(A): Extension of Time to Take Credit Counseling Course.** If the debtor certifies on Part 5 of the petition that § 109(h)(3) applies, the debtor must file at the same time as the petition a separate certification under § 109(h)(3)(A) that is sufficient to the Court and that merits an extension of no more than 30 days from the petition date to comply with § 109(h)(1). The statement shall: (i) explain what efforts the debtor made to obtain the credit counseling briefing during the 7 days prior to the petition date; (ii) explain why the debtor was unable to obtain the credit counseling briefing before filing the petition; and (iii) describe the exigent circumstances that merit a waiver of the requirement to take the credit counseling briefing before filing the bankruptcy petition.

The court may grant the motion, set it for a hearing, or deny the motion without a hearing. If the motion is denied, the clerk must enter an order dismissing the case. If the motion is granted, the debtor must timely file the credit counseling certificate required by § 521(b) or the clerk will enter an order dismissing the case unless the court, for cause, orders under § 109(h)(3)(B) an additional 15 days to comply.

(3) Section 109(h)(4): Debtor Not Able to Take Credit Counseling Briefing. If the debtor asserts on Part 5 of the petition that the credit counseling briefing cannot be taken due to incapacity, disability, or active military duty, the debtor must timely take the following actions, or the clerk may enter an order dismissing the case:

(i) At the same time as the petition, file a motion and proposed order under § 109(h)(4). The motion should be supported by admissible but appropriately redacted documents establishing the debtor's incapacity, disability, or active military duty;

(ii) A hearing on the motion shall be set for a date not later than 42 days after the petition date; and

(iii) Notice of the motion shall be served pursuant to Local Rule 2002-1.

RULE 1009-1
AMENDMENTS OF PETITIONS, BANKRUPTCY SCHEDULES,
AND STATEMENT OF FINANCIAL AFFAIRS

Any amendment to a voluntary petition, bankruptcy schedule, or statement of financial affairs under Fed. R. Bankr. P. 1009 shall comply with the following:

(1) If removing information, the amendment shall include all information that was on the original document, but shall conspicuously indicate the removal of information by striking through the text such that the original text is still legible, unless such text is otherwise required to be redacted;

(2) If adding information, the amendment shall include all information that was on the original document, and shall conspicuously indicate the addition of the new information, such as by circling, underlining, highlighting, or using a different colored font;

(3) If replacing information, the amendment shall include all information that was on the original document except the content being replaced, and shall conspicuously indicate the replacement information, such as by circling, underlining, highlighting, or using a different colored font.

RULE 1014-1
CHANGE OF VENUE

(a) **Within the District.** In the interest of justice or for the convenience of the parties, the court may change venue of a case or proceeding from one division of the court to another. A motion for intra-district transfer is governed by Fed. R. Bankr. P. 9014 and [Local Rule 9013-1](#).

(b) **To Another District.** For procedures to change venue of a case or proceeding to another district, see DUCivR 83-7.4(a) and (c) and Fed. R. Bankr. P. 1014.

RULE 1015-1
JOINT ADMINISTRATION/CONSOLIDATION OF BANKRUPTCY CASES

A motion for consolidation or joint administration of cases shall be filed in all bankruptcy cases to be consolidated or jointly administered. The party filing the motion must set the matter for hearing before the judge assigned to the case with the lowest case number to which the motion for consolidation or joint administration applies and shall send notice of the motion and hearing to all parties in interest as listed in the court's most recent creditor's matrices for all affected cases. Any party in interest in any of the affected cases may object to the motion by filing an objection in the case with the lowest case number to which the motion for consolidation or joint administration applies. If the court grants the motion, the cases will be consolidated into or jointly administered under the case having the lowest case number, and the judge assigned the case will retain the assignment for the consolidated or jointly administered case, unless otherwise ordered by the court. Upon entry of the order granting the motion, the clerk will enter a docket entry in all cases stating the bankruptcy case number of the consolidated or jointly administered case.

RULE 1073-1
ASSIGNMENT OF CASES

The assignment of cases to the judges of the court is the responsibility of the Chief Judge of the court and will, unless otherwise ordered, proceed as follows:

(a) **Random Selection Case Assignment System**. Case assignments are made on a nonpublic rotating calendar established and monitored by the clerk, with the following exceptions: (1) cases filed in certain geographic areas may be assigned to the judge(s) assigned to that area, and (2) a blind draw will occur in all chapter 11 cases, involuntary cases, and in chapter 7 cases with 100 creditors or more.

(b) **Judicial Recusal or Disqualification**. If a judicial recusal or disqualification occurs, another judge will be assigned to the case by random selection. If all judges recuse themselves or are disqualified, the Chief Judge will request the Chief Judge of the United States Court of Appeals for the Tenth Circuit to assign a bankruptcy judge from another district to the case.

(c) **Unavailability of Assigned Judge**. A party may request relief from any judge of the court if the assigned judge is unavailable.

(d) **Repeat Cases**. If the debtor had a pending bankruptcy case before this Court during the previous 8 years, the Clerk may reassign the case to the judge to whom the previous bankruptcy case was assigned.

(e) **Reassignment for Cause**. At any time during the case, the Chief Judge may reassign a case based on factors of expediency, efficiency, or for other cause.

RULE 2002-1
NOTICE TO CREDITORS AND OTHER INTERESTED PARTIES

(a) **Scope of Rule.** This rule governs notice of proposed actions, motions, applications, and other requests for relief in bankruptcy cases which are addressed by Fed. R. Bankr. P. 2002.

(b) **Form of Notice.** A notice required by this rule to parties in interest may include a statement that the relief requested may be granted without a hearing unless an objection is timely filed. A notice not accompanied by a motion must include a brief statement or summary of the relief requested and explain the basis for the relief.

(c) **Time for Notice.** Time for notice of hearings, response and reply deadlines, and for taking certain other actions under these Local Rules are set forth in [Local Rule 9006-1](#).

(d) **Service of Notice.** The movant must serve the notice of hearing on all parties as required by the Federal Rules of Bankruptcy Procedure.

(e) **Returned Notices.** If any notices mailed using the addresses appearing on the matrix are returned, the debtor should update the mailing matrix as necessary to reflect the current addresses of parties in interest.

(f) **Notice of Compensation in Chapter 7 Case.** Before filing a final report in a chapter 7 case, the trustee must notify any entity who, to the knowledge of the trustee, may be entitled to compensation or reimbursement under § 330. The entity may, within 14 days of service of the notice, file an application for compensation and reimbursement of expenses. The court may deny as untimely an application for compensation filed after this date.

(g) **Notice of Entry of Confirmation Order.** The plan proponent must provide notice of the entry of an order confirming a chapter 9, 11 or 12 plan under Fed. R. Bankr. P. 2002(f)(7).

(h) **Notice to Certain Governmental Entities.** In addition to all other notice requirements found in the Federal Rules of Bankruptcy Procedure, when notices are required to be sent to the Internal Revenue Service, the Securities and Exchange Commission, the Utah State Tax Commission, the Utah Department of Workforce Services, or the Office of Recovery Services, notices should be mailed or delivered to addresses listed on the court's website, www.utb.uscourts.gov.

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) that no meeting of creditors is required, if the debtor or the debtor's attorney fails to appear at the scheduled or continued § 341 Meeting.

(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(f).

(3) In a case other than one under chapter 13, if the debtor or the debtor's attorney fails to appear at the scheduled or continued § 341 Meeting, the case trustee or U.S. Trustee must file a § 341 Meeting Report (the "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 must continue without prejudice to any motion to dismiss filed by a party in interest. Otherwise, within 21 days after service of the Report, the debtor or other party in interest must file an objection to the Report and set the objection for a hearing. The objecting party must give notice of the hearing to the case trustee and to any party appearing at the § 341 Meeting. If an objection is not timely filed or a hearing is not timely set and noticed, the clerk must enter an order dismissing the case. 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 and the time fixed under Fed. R. Bankr. P. 4003(b)(1) for filing objections to exemptions under § 522(l). Unless the court orders otherwise, the clerk must enter an order dismissing the case if a hearing on the objection to the Report is not held within 42 days after the objection is filed.

(4) In a joint case where only one debtor appears, the non-appearing debtor may be dismissed from the case.

(b) Debtor's Duties relating to the § 341 Meeting. The debtor is required to provide documentation prior to and at the § 341 Meeting 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(e) prior to or at the § 341 Meeting.

(c) **Motions to Reschedule.** A debtor should file a motion to reschedule a § 341 Meeting not later than 7 days prior to the scheduled § 341 Meeting. The debtor shall send notice of the motion to the Trustee and United States Trustee. In a chapter 7 case, the motion 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 court may grant the motion, set it for a hearing, or deny the motion without a hearing. If the court grants the motion, the clerk must give notice of the new date and time of the meeting unless otherwise directed by the court.

(d) **Telephonic Appearance at § 341 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 the § 341 Meeting. 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 7 days prior to the scheduled § 341 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 and for making arrangements for an independent third party authorized to administer oaths to be present at the debtor's location to administer the oath and to verify the debtor's identity and social security number.

(e) **Costs of Meeting Facilities.** If the circumstances of a particular case require that the § 341 Meeting 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.

(f) **Notice of Rescheduled § 341 Meetings**. If the initial § 341 Meeting is rescheduled, the clerk must give notice of the new date and time of the meeting unless otherwise directed by the court.

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)
 - (A) Represents that the entity to be examined will receive not less than 14 days' written notice of the examination, and that compulsory attendance of the entity and, if applicable, the production of documents will be by subpoena consistent with Fed. R. Bankr. P. 2004(c) and 9016; or
 - (B) Represents that the movant and the entity to be examined have stipulated in writing to the time and place of the examination and, if applicable, to the production of documents.

COMMENT (2017)

This rule permits parties to obtain without a hearing a court order authorizing an examination pursuant to Bankruptcy Rule 2004. 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 without a hearing, may not compel the entity to be examined to attend the examination or to produce documents.

RULE 2081-1
CHAPTER 11 - GENERAL

(a) **Initial Financial Reports and Other Documents.** Not later than 7 days after filing a chapter 11 petition, all chapter 11 debtors shall provide to the United States Trustee evidence of any policies of insurance maintained by the debtor. Not later than 21 days after filing a chapter 11 petition, non-small business debtors must provide to the United States Trustee an initial financial report in the form approved by the United States Trustee. Upon a request of the United States Trustee, a chapter 11 debtor shall within 7 days of such request provide to the United States Trustee proof of any required permits or licenses relating to the debtor's business operations.

(b) **Monthly Financial Reports.** Not later than 14 days after the end of each month the debtor in possession or trustee must file with the court a monthly financial report in the form approved by the United States Trustee. The duty to file these reports terminates upon confirmation of a plan, or upon conversion or dismissal of the case.

(c) **Post-Confirmation Summary Report.** If the court orders, a reorganized debtor or other entity responsible for consummation of a plan shall file a one-time summary report within 90 days after entry of a confirmation order which must include the following:

- (1) the dollar amounts of administrative expenses for fees for the attorney for the debtor, attorney for the trustee, the trustee, other professionals, and out-of-pocket expenses;
 - (2) the dollar amounts of priority, secured, and unsecured claims;
 - (3) the dollar amounts of plan payments to priority, secured, and unsecured creditors;
 - (4) the percentage dividend being paid to unsecured creditors without priority;
- and
- (5) the estimated date that a final decree will be entered. Failure to comply with this subsection constitutes grounds for dismissal of the case.

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. If the debtor does not file a plan timely, the chapter 12 trustee should 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 served, 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. 9006(d). If a hearing on the objection is not held within 42 days after the objection is filed, the clerk must 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 scheduled § 341 Meeting 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.

RULE 2083-1
CHAPTER 13 – GENERAL

(a) **Chapter 13 Plan**. Unless otherwise ordered by the court, all chapter 13 plans shall conform to the Official Form 113 Chapter 13 Plan posted on the bankruptcy court’s website (www.utb.uscourts.gov) (see [Local Rule 2083-2](#)).

(b) **Preconfirmation Plan Amendments or Modifications**.

(i) **Plan amendments having a material negative impact on creditors**. In addition to filing the amended plan, the debtor must prepare a Notice of Amended Plan in substantial conformity with Local Form 2083-1-A that contains a summary of the changes between the prior plan and the amended plan. The amended plan along with the Notice of Amended Plan must be filed and served on the trustee and all parties in interest in compliance with Fed. R. Bankr. P. 3015(d) and 2002(a)(5).

(ii) **Plan modifications NOT having a material negative impact on creditors**. The debtor must prepare a Notice of Modified Plan in substantial conformity with Local Form 2083-1-B that contains a summary of the changes between the prior plan and the modified plan. The Notice of Modified Plan must be filed and served upon the trustee.

(iii) **Final Plan**. Any party in interest, including the court or the trustee, may request that the debtor file a Final Plan that incorporates all prior plan amendments, modifications, and stipulations. Unless otherwise ordered by the court, the debtor shall file a Final Plan no later than 14 days following such request.

(c) **Chapter 13 Plan Payments**. Unless otherwise ordered by the court, payments under § 1326 must commence not later than the first date set for the § 341 Meeting. 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.

(d) **Preconfirmation Payments Pursuant to § 1326(a)**.

(1) **Distribution in Preconfirmation Cases**. Preconfirmation disbursements by the trustee under § 1326(a)(1) are hereby authorized without further order. The amount and timing of Adequate Protection Payments, unless otherwise ordered by the court, shall be governed by subparagraphs (2) through (8) below. Preconfirmation disbursements under § 1326(a)(1) shall be made to creditors within 30 days of the filing of the proof of claim,

unless the trustee has not received sufficient cleared funds to make such payment. The trustee is authorized to deduct from the allowed amount of a claim all § 1326(a)(1) preconfirmation disbursements.

(2) Adequate Protection Payments. Unless otherwise ordered by the court, all preconfirmation Adequate Protection Payments to holders of secured claims required under § 1326(a)(1)(C) 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), which shall include the amount necessary to pay the trustee's statutory fee.

(3) Amount and Period of Adequate Protection Payments. Unless the debtor files a separate Notice for Adequate Protection Payments (Local Form 2083-1-C) or includes the Notice for Adequate Protection Payments as an attachment to the Plan, the Equal Monthly Plan Payment amount listed in Part 3.2 or 3.3 of the Plan for a creditor entitled to adequate protection under § 1326(a)(1)(C) and § 1325(a)(5)(B)(iii)(II) will constitute that creditor's Adequate Protection Payment amount. The Notice for Adequate Protection Payments must fix the amount and period of the Adequate Protection Payments.

(4) Adequate Protection Payments as a Nonstandard Plan Provision. A plan proposing to pay Adequate Protection Payments in an amount less than the Equal Monthly Plan Payment shall be deemed to contain a nonstandard provision and must indicate the inclusion of a nonstandard provision in the check box in Part 1.3 of the Plan. Part 8 of the plan must identify the creditor(s) who will receive Adequate Protection Payments and the corresponding part of the plan in which such creditor(s) is listed. Part 8 of the plan must also refer creditors to the Notice for Adequate Protection Payments for detail concerning the amount and duration of Adequate Protection Payments.

(5) Adequate Protection Payments Accrual. Adequate Protection Payments shall accrue commencing with the first plan payment due no later than the first date set for the § 341 Meeting and shall continue to accrue on the first day of each month thereafter for the number of months specified in the Notice of Adequate Protection Payments. Upon expiration of the number of months specified in the Notice for Adequate Protection Payments, each secured creditor will be paid the Equal Monthly Plan Payment set forth in

the plan.

(6) Trustee's Payment of Adequate Protection Payments. The trustee will make Adequate Protection Payments only if a secured proof of claim is filed in compliance with the applicable provisions of Fed. R. Bankr. P. 3001, 3002 and 3004 before the earlier of the entry of an order dismissing or converting a case or the applicable claims bar date. If no secured proof of claim is filed, the trustee may reserve funds to pay Adequate Protection Payments to a creditor identified as a recipient of Adequate Protection Payments in anticipation of a claim being filed.

(7) Principal Reduction Prior to Interest Accrual. Adequate Protection Payments made or attributable to the period before interest begins to accrue on such claims shall be applied to reduce the principal balance of such claim. Adequate Protection Payments made or attributable to the period after interest begins to accrue shall be applied to unpaid interest and then to principal.

(8) Amended Notice for Adequate Protection Payments. If an amended Notice for Adequate Protection Payments is filed that decreases the amount of Adequate Protection Payment, the change in amount will be effective with the next accrual date. If an amended Notice for Adequate Protection Payments is filed that increases the amount of Adequate Protection Payment, the change will be retroactive to the date of the first payment accrual and the difference will be disbursed to the secured creditor by the trustee as sufficient funds are available to make such payment.

(9) Distribution in Discontinued Preconfirmation Cases.

(A) If a chapter 13 case is dismissed prior to confirmation, the trustee is authorized to apply the debtor's plan payments to pay: (i) the trustee's statutory percentage fee; (ii) Adequate Protection Payments pursuant to the terms set forth in subsections (2) – (8) above; (iii) any allowed administrative expenses; and (iv) the balance of such funds will be returned to the debtor by check made payable to and mailed to the debtor at the debtor's address of record listed on the court's docket.

(B) If prior to confirmation a chapter 13 case is converted to a case under chapter 7, unless otherwise ordered by the court, the trustee must return any

undisbursed funds constituting debtor's wages held by the trustee to the debtor by check made payable to and mailed to the debtor at the debtor's address of record listed on the court's docket.

(e) **Documents Provided to the Trustee at or before the § 341 Meeting.**

(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 first date set for the § 341 Meeting:

(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 for the 60 days prior to the filing, on a form supplied by the trustee; and

(E) Copies of tax returns required under [Local Rule 6070-1\(c\)\(2\)](#).

(2) A debtor must provide to the trustee copies of the following documents at or before the first date set for the § 341 Meeting:

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

(B) Statements for each of the debtor's checking, savings, brokerage, and money market accounts and mutual funds for the one-month period that includes the petition date.

(f) **Dismissal for Failure to Attend a § 341 Meeting or Make Payment.** If the debtor or the debtor's attorney fails to appear at the scheduled or continued § 341 Meeting or if a debtor fails to make the first payment required by subsection (c) 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 served, the clerk must enter an order dismissing the case. If a motion to dismiss for failure to attend a § 341 Meeting is filed, any objection thereto must include a request to reschedule both the § 341 Meeting and the confirmation

hearing. In the absence of good cause alleged in the objection and established at the hearing, the debtor must also agree to an extension of all deadlines calculated from the first date set for the § 341 Meeting, including deadlines for objecting to claimed exemptions under Fed. R. Bankr. P. 4003(b), and for filing complaints objecting to discharge or dischargeability under Fed. R. Bankr. P. 4004(a) and 4007(c). If a hearing is required on an objection filed under this subsection, it will be held at the same time scheduled for the confirmation hearing stated on Official Form 309I. No notice of the objection in addition to the notice of hearing contained on Official Form 309I is required.

(g) 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, with respect to all subparts of § 1307(c), or the applicable taxing authority, with respect to subpart (5), 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 financial documents under Fed. R. Bankr. P. 4002(b)(2);
- (3) Failure to provide documents under subsection (e) 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 establishment of tax trust accounts under [Local Rule 6070-1\(a\)\(1\)](#), 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 the debtor intends to oppose dismissal, a written objection must be filed. If an objection is not filed within 21 days after the motion or notice is served, the clerk must enter an order dismissing the case. If an objection contains a request to reschedule the § 341 Meeting, the time limitation set forth in [Local Rule 2003-1\(c\)](#) shall not apply. Such request, however, must seek an extension of the deadlines set forth in subparagraph (f) above. If the trustee files a motion to dismiss for failure to comply with (1) or (3) of this subparagraph (g), the trustee will call and preside at the § 341 Meeting to permit creditors to question the debtor, but the trustee will not question the debtor and the § 341 Meeting shall be adjourned until after the hearing on the motion

to dismiss has been held, unless prior to the § 341 Meeting the debtor resolves the deficiencies resulting in the motion to dismiss and the court enters an order authorizing the trustee to conduct the scheduled § 341 Meeting.

A hearing on an objection filed in response to the trustee's notice of failure to provide documents or comply will be held at the same time scheduled for the confirmation hearing stated on Official Form 309I, unless the court orders otherwise. No notice of the objection in addition to the notice of hearing contained on Official Form 309I is required.

(h) **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.

(i) **Eligibility Hearing.** A party must file and serve a motion to dismiss a chapter 13 case under § 109(e) not later than 7 days before the date set on Official Form 309I for the plan confirmation hearing. Such motion will be heard at the plan confirmation hearing, unless the court orders otherwise.

(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 309I 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 of the debtor's plan, and specifically § 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) Postconfirmation Motions.

(1) Trustee's Motion 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. By the objection deadline set in the trustee's motion to dismiss, which must be at least twenty-one (21) days after the motion or notice is served, 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) serve notice of the hearing on the trustee. Responses must be filed and served within 14 days after notice

of the hearing is served pursuant to [Local Rule 9006-1\(b\)\(3\)](#).

(2) Debtor's Motion to Reduce Equal Monthly Plan Payment to Adequate Protection Payment Amount.

(A) If the debtor moves to modify a plan under § 1329 to seek a reduction of a secured creditor's Equal Monthly Plan Payment while paying administrative expenses allowed under § 330, a Notice of Postconfirmation Reduction of Equal Monthly Plan Payment (Local Form 2083-1-D) must be filed and served on the affected creditor(s).

(B) The Notice of Postconfirmation Reduction of Equal Monthly Plan Payment shall fix the amount and number of payments during the period of payment of allowed administrative expenses under § 330. The reduced Equal Monthly Plan Payment amount shall accrue on the first day of the month following entry of the order approving the reduction in Equal Monthly Plan Payment.

(C) The deadline to object to a Notice of Postconfirmation Reduction of Equal Monthly Plan Payment shall be governed by the Fed. R. Bankr. P. 3015(h) and [Local Rule 2083-1\(j\)\(1\)](#).

(l) Claims Review and Trustee's Report of Claims. Not later than 60 days following expiration of the governmental claims bar date, debtor shall file and serve a declaration that all claims have been reviewed and that any appropriate objections have been filed and served. Not later than 60 days following the filing of debtor's claims review declaration or 30 days following entry of an order confirming the plan, whichever is later, the trustee shall file and serve on all parties in interest a Trustee's Report of Claims ("TROC") that lists all claims and how they are treated under the plan. Any objection to the TROC must be filed within 21 days after service of the TROC. 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 must 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 21 days of after service 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 allowance of 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 after service of the Notice of Completion of Plan Payments, the debtor must file and serve a Verification and Request for Discharge in the form attached as Local Form 2083-1 on parties entitled to ECF notice, any party requesting notice, and any holder of a domestic support obligation. 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. Failure to follow the provisions set forth in this rule may result in the Court's closure of the debtor's bankruptcy case without the entry of a discharge.

RULE 2083-2
PROVISIONS REGARDING USE OF OFFICIAL
CHAPTER 13 PLAN FORM (THE “PLAN”)

(a) **Allowance of Claims.** Except as otherwise specified in Part 3.2 of the Plan, the amount of all allowed claims to be paid through the Plan shall be determined using the applicable provisions of the Bankruptcy Code and the Bankruptcy Rules. A proof of claim must be timely filed or specifically allowed by an order of the court to receive any disbursements from the trustee under the Plan.

(b) **Trustee’s Percentage Fees.** The trustee shall collect the statutory fee of 28 U.S.C. § 586(e) for any receipts received or disbursements actually or constructively made by the trustee under the Plan or pursuant to the Bankruptcy Code, the Local Rules, or a court order. The calculation required by Part 4.2 of the Plan should be based on a trustee’s statutory fee of 10%, unless otherwise approved by the court.

(c) **Disbursements on Secured Claims.**

(1) The trustee shall make disbursements on a secured claim only if all the following conditions are met:

(A) The Plan specifically provides that the trustee shall disburse on the secured claim;

(B) The secured claim is allowed under §§ 502(a) and 506(a), meaning a secured proof of claim has been timely filed, or the claim has been allowed by court order; and

(C) There is no pending objection or motion with respect to such proof of claim under Fed. R. Bankr. P. 3007 (objection to claim) or 3012 (motion to value collateral).

(2) All disbursements are subject to the trustee having received from the debtor sufficient payments under the Plan to enable the trustee to make such disbursements.

(3) If a secured creditor obtains relief from the automatic stay and that secured creditor’s claim is being paid by the trustee in the Plan, the order granting relief from the automatic stay should include language that the trustee shall make no further distribution on behalf of the secured claim. The order should also state that the creditor shall have 180 days from entry of the order granting relief from the automatic stay to file an unsecured

deficiency claim or such creditor's claim will be deemed to be paid in full for purposes of the Plan, unless otherwise ordered by the court.

(d) **Interest Accrual and Interest Rate on Secured Claims.** Interest shall begin to accrue from the entry of the order confirming the Plan; however, interest may begin to accrue on an oversecured claim as of the petition date, if so designated in Part 8.1 of the Plan.

(1) If no interest rate is designated for a claim listed in Part 3.2 or Part 3.3 of the Plan, interest shall accrue at the rate set forth on line 9 of the filed proof of claim. If the proof of claim does not specify an interest rate, then interest shall accrue at 6% per annum on claims listed in Part 3.2 and Part 3.3.

(2) If no interest rate is stated for a claim listed in Part 3.1 of the Plan, then no interest shall be paid by the trustee on such claim.

(3) Any modification of interest rates stated in the Plan shall apply only to claims on which the trustee makes disbursement. The contractual interest rate and the current installment payment portion of any claim listed in Part 3.1 of the Plan which the debtor pays directly shall remain unaltered.

(e) **Order of Distribution.**

(1) The trustee shall first collect the trustee's statutory percentage fee pursuant to 28 U.S.C. § 586(e) upon receipt of any payment made by the debtor or on the debtor's behalf. The trustee shall pay allowed claims in the following order:

Class 1: Adequate Protection Payments pursuant to [Local Rule 2083-1\(d\)](#), Equal Monthly Plan Payments to secured creditors as stated in Part 3 of the Plan, or accrued interest, if greater than the Adequate Protection Payment or Equal Monthly Plan Payment.

Class 2: Attorney's fees as provided for in Part 4.3 of the Plan until paid in full.

Class 3: Priority Domestic Support Obligations under § 507(a)(1) until paid in full.

Class 4: Other administrative expenses allowed under § 507(a)(2) until paid in full.

Class 5: Other secured claims paid to be paid by the trustee for which the

Plan does not provide Adequate Protection Payments or Equal Monthly Plan Payments.

Class 6: Other priority claims until paid in full.

Class 7: Nonpriority unsecured claims as provided in Part 5 of the Plan.

(2) If the Plan specifies Adequate Protection Payments or Equal Monthly Plan Payments (Class 1) to be paid to the holder of a secured claim, all accrued Class 1 monthly payments must be current through the date of distribution before the trustee may disburse to a junior class. However, Class 1 claims need not be paid in full prior to a junior class receiving distributions.

(3) After payment of allowed attorney's fees (Class 2), the trustee may, but is not required to, disburse to holders of Class 1 claims amounts greater than the stated monthly payment amount to facilitate the prompt administration of the case.

(4) If the trustee has not received sufficient funds to pay the full monthly amount of the stated Adequate Protection Payments or Equal Monthly Plan Payments in Class 1, the trustee may make a pro rata distribution to each holder of a claim in Class 1. Adequate Protection Payments will be brought current before disbursements are made on Equal Monthly Plan Payments, and unpaid portions of Adequate Protection Payments or Equal Monthly Plan Payments from prior months will first be brought current before disbursements are made to a junior Class.

(5) If the Plan does not provide for an Equal Monthly Plan Payment on a claim, the trustee shall distribute pro rata payments to the holder of such claim within the designated Class.

(f) Part 1.3 – Required Nonstandard Plan Provisions.

(1) Adequate Protection Payments. If the debtor seeks to pay Adequate Protection Payments to holders of secured claims, the requirements of [Local Rule 2083-1\(d\)](#) apply.

(2) Applicable Commitment Period. The applicable commitment period for the Plan shall be stated in Part 8.1 of the Plan as a nonstandard provision. The debtor must include a statement indicating if the applicable commitment period of the Plan is 36 or 60 months, as determined by § 1325(b). The number of months listed in Part 2.1 for which the

debtor will make regular payments is an estimate only; the applicable commitment period stated in Part 8.1 dictates the term of the Plan. Any below median case may be extended as necessary not to exceed 60 months to complete the Plan payments.

(3) Direct Payment of Claims. If the debtor elects to pay a claim directly and that claim is not one which the Plan allows to be paid directly, the direct payment designation must be made in Part 8.1 of the Plan as a nonstandard provision. For all claims the debtor elects to pay directly, [Local Rule 2083-2\(i\)\(4\)](#) applies.

(4) Third-Party Payment of Claims. If the Plan provides that a nondebtor shall pay a claim directly, the third-party payment designation must be made in Part 8.1 of the Plan as a nonstandard provision. For all claims the Plan provides will be paid by a third-party, [Local Rule 2083-2\(k\)\(1\)](#) may apply. Upon request, the debtor must furnish the name and contact information for the third-party payor.

(5) Lien Avoidance Under § 522(f). If the debtor moves to avoid a lien under § 522(f), [Local Rule 2083-2\(j\)](#) applies.

(6) Interest on Oversecured Claims. If the debtor proposes to pay an oversecured claim a nonstandard rate of interest or interest accruing prior to confirmation of the Plan, such nonstandard treatment must be specifically stated in Part 8.1 of the Plan, including the identity of the secured creditor and the proposed interest rate accrual.

(7) Local Rules are Incorporated. Each Plan shall include the following required nonstandard provision: “The Local Rules of Practice of the United States Bankruptcy Court for the District of Utah are incorporated by reference in the Plan.”

(g) Part 3.1: Maintenance of post-petition payments and cure of default, if any.

(1) The trustee shall make disbursements on allowed arrearage claims listed in Part 3.1 of the Plan. The trustee will pay the amount of the arrearage stated in the proof of claim, unless modified by an amended claim or court order. If the column designated as “Monthly plan payment on arrearage” is left blank or is “zero,” the trustee will make pro rata disbursements on that arrearage claim.

(2) Unless otherwise ordered by the court, the debtor shall maintain current contractual installment payments directly to the creditors listed in Part 3.1 of the Plan in

accordance with the terms of the contract, beginning with the first payment due after the petition date.

(3) The debtor may not modify the contractual rate of interest or monthly payment amount listed in Part 3.1 of the Plan. Any interest rate stated in Part 3.1 of the Plan applies only to the pre-petition arrearages being paid by the trustee.

(4) Current contractual installment payments due from the debtor may change due to an adjustable rate note, escrow requirements, etc. Notices of such payment changes shall be filed and served on the debtor in compliance with Fed. R. Bankr. P. 3002.1(b).

(h) Part 3.2: Request for valuation of security, payment of fully secured claims and modification of undersecured claims.

(1) The Plan must designate with the check box in Part 1.1 that Part 3.2 is being utilized.

(2) Each creditor listed in Part 3.2 must be served with the Plan in compliance with Fed. R. Bankr. P. 3012(b) and such service must be evidenced by a separately filed certificate of service. Any Plan amendment or modification negatively affecting a creditor listed in Part 3.2 must similarly be served on such creditor in compliance with Fed. R. Bankr. P. 3012(b) and such service must be evidenced by a separately filed certificate of service.

(3) If the debtor is seeking to value an allegedly wholly unsecured consensual lien against the debtor's real property, and unless otherwise permitted by the court, a separate motion or adversary proceeding must be filed prior to the first date fixed for a hearing on confirmation of the Plan. The debtor must comply with all applicable notice, service, and evidentiary requirements to obtain such relief. A separate order must be filed by the debtor if the relief is granted.

(4) Unless an objection is filed to confirmation of the Plan, the court will fix the value of the collateral consistent with the debtor's proffer of value in the Plan without further notice or hearing. A nongovernmental entity's filing a proof of claim asserting a collateral value higher than the debtor's proffered value does not constitute an objection to confirmation. The allowed secured claim of such creditor shall be paid the lesser of (a) the value as fixed by an order of the court, (b) the amount of debtor's proffer of value or (c)

the secured amount asserted in the allowed proof of claim, including any subsequent amendments or modifications approved by court order.

(5) Allowed secured claims filed by a governmental unit shall be paid the secured amount set forth on the proof of claim rather than the debtor's proffer of value in the Plan. The debtor must comply with Fed. R. Bankr. P. 3012(c) to establish a lesser secured amount of a governmental unit's claim.

(i) Part 3.3: Secured claims excluded from 11 U.S.C. § 506.

(1) The secured claim of each creditor in Part 3.3 of the Plan shall be the secured amount listed in the allowed proof of claim, unless modified by an amended claim or court order.

(2) The debtor may modify the interest rate and monthly payment amount for any secured claim listed in Part 3.3 of the Plan on which the trustee disburses payments.

(3) If the debtor elects to directly pay a claim listed in Part 3.3 of the Plan, the contractual interest rate and monthly payment amount cannot be modified.

(4) If the debtor elects to pay directly a claim listed in Part 3.3 of the Plan, the following conditions apply: (A) the debtor will pay the claim without any modifications to the terms of the contract; (B) upon entry of the Order Confirming the Plan, the automatic stay of § 362 and the co-debtor stay of § 1301 are terminated as to such collateral and the co-debtor's obligation; (C) the claim will not be discharged; and (D) neither the court nor the trustee will monitor the debtor's performance on direct payments to the creditor.

(j) Part 3.4: Lien avoidance under 11 U.S.C. § 522(f).

(1) The Plan must designate in the check box in Part 1.2 that Part 3.4 is being utilized. The Plan must also designate in the check box in Part 1.3 that the Plan contains a nonstandard provision in Part 8.1, which nonstandard provision shall state that the affected creditor will retain its lien until one of the conditions set forth in subparagraph (3) below is satisfied.

(2) Each creditor listed in Part 3.4 of the Plan must be served with the Plan in compliance with Fed. R. Bankr. P. 4003(d) and such service must be evidenced by a separately filed certificate of service. Any Plan amendment adding a creditor in Part 3.4

must similarly be served in compliance with Fed. R. Bankr. P. 4003(d) and such service shall be evidenced by a separately filed certificate of service.

(3) Any creditor listed in Part 3.4 of the Plan shall retain its lien securing such claim until the earlier of (A) payment of the underlying debt determined under nonbankruptcy law, (B) discharge of the underlying debt under § 1328 or completion of the plan, at which time the lien will terminate and be released by the creditor, or (C) entry of an order granting a separate motion filed by the debtor seeking release of the lien for cause under § 349(b).

(4) For each creditor listed in Part 3.4 of the Plan, the debtor must complete and attach to the Plan Local Form 2083-2 (Form for Lien Avoidance Worksheet), specifically identifying the holders and amounts of liens senior to the lien(s) intended to be avoided.

(5) For any claim listed in Part 3.4 of the Plan, subparagraphs (4) and (5) of [Local Rule 2083-2\(h\)](#) apply.

(6) Nothing in this Rule prevents the debtor from seeking to avoid a lien under § 522(f) by separate motion.

(k) Part 3.5: Surrender of collateral.

(1) Upon entry of the order confirming the Plan, the automatic stay under § 362 and the codebtor stay under § 1301 are terminated as to both the collateral and the codebtor obligation. The debtor shall immediately make the collateral being surrendered available to the secured creditor.

(2) Creditors listed in Part 3.5 of the Plan shall have 180 days from entry of the confirmation order to file an amended claim for an unsecured deficiency or such creditor's claim will be deemed paid in full.

(l) Part 4: Treatment of Fees and Priority Claims.

(1) Unless otherwise ordered by the court, if the Plan provides for interest on nonpriority unsecured claims, such interest shall also be paid on priority claims, other than an award of fees under § 507(a)(2).

(2) The calculation required by Part 4.2 of the Plan shall be based on a trustee's statutory fee of 10%, unless otherwise ordered by the court.

(3) The “balance of fees owed to the attorney for the debtor” referred to in Part 4.3 of the Plan shall be determined by subtracting any retainer received by debtor’s attorney from the allowed chapter 13 presumptive fee established by the court’s “Policies and Procedures” or other orders of the court. The total award of attorney’s fees may not exceed the applicable presumptive fee absent compliance with notice and hearing requirements of the Bankruptcy Code, Bankruptcy Rules, and Local Rules. The presumptive fee shall provide compensation for legal services through (A) Plan confirmation; (B) the claims review process that does not require an actual contested hearing; (C) certification of the debtor’s completion of the postpetition instructional course concerning personal financial management; and (D) the final certification of readiness for discharge.

(4) Unless otherwise ordered by the court, if the debtor utilizes Part 4.5 of the Plan to pay a domestic support obligation owed to governmental unit in an amount less than the full amount, the creditor must affirmatively accept or endorse the treatment under the Plan. The Plan shall be served on such governmental unit in compliance with Fed. R. Bankr. P. 3012(b) and such service shall be evidenced by a separately filed certificate of service.

(5) The allowed amount of any priority claim will be the amount stated in the filed proof of claim, unless modified by an amended claim, as determined under Fed. R. Bankr. P. 3012 or by other court order.

(m) Part 5: Treatment of Nonpriority Unsecured Claims.

(1) Unless the Plan proposes 100% payment to all claims, the return to unsecured creditors shall be the greater of the amount specified in Part 5.1 or the pro rata distribution, if any, resulting from the Plan payment in Part 2.1 multiplied by the applicable commitment period, plus tax refunds and other payments designated as lump sum plan contributions.

(2) If the debtor asserts a substantial change in circumstances warranting deviation from the return to unsecured creditors required by § 1325(b)(1)(B), then prior to the confirmation hearing the debtor must file a separate pleading describing such change in circumstances. Such pleading shall be accompanied by evidence of the change in circumstances including, but not limited to, the debtor’s affidavit, pay advices or other

evidence of income, or a hypothetical Form B 122C-2 indicating what the return, if any, to unsecured creditors would be with the current income.

(3) The trustee or any other party in interest may file a pleading asserting a substantial change in the debtor's circumstances warranting deviation from the return to unsecured creditors required by § 1325(b)(1)(B) if it appears the debtor's ongoing income supports an ability to pay an increased amount to unsecured creditors. Such pleading may be accompanied by evidence of the change in circumstances including, but not limited to, the debtor's pay advices or other evidence of income, the debtor's schedules, or debtor's tax returns.

(4) If the Plan designates unsecured claims to be treated in Part 5.2 (Maintenance of payments and cure of any default on nonpriority unsecured claims) or Part 5.3 (Other separately classified nonpriority unsecured claims), the debtor must establish the basis for such designation under § 1322(b)(1) in a separately filed pleading. Any separate classification of an unsecured debt must comply with all provisions of the Bankruptcy Code and applicable case law.

(n) Part 6: Executory Contracts and Unexpired Leases.

(1) If an unexpired lease or executory contract is not assumed in the confirmed Plan, such lease or contract is deemed rejected as of entry of the order confirming the Plan. If the lease or contract is rejected, the automatic stay of § 362 and codebtor stay of § 1301 are terminated as to the property which is the subject of the lease or contract and as to any co-debtor.

(2) If an unexpired lease or executory contract is assumed, the debtor shall directly make postpetition lease or contract payments to the other party to the lease or contract subject to the following conditions: (A) the debtor will make such payments without any modifications to the terms of the contract or lease; (B) upon entry of the order confirming the Plan, the automatic stay of § 362 and the co-debtor stay of § 1301 are terminated as to the indebtedness and as to any co-debtors; (C) claims arising under the contract or lease will not be discharged; and (D) neither the court nor the trustee will monitor the debtor's performance on direct payments to such creditors.

(3) If the debtor owes arrearages on an unexpired lease or executory contract and provides for payment of such arrearages by the trustee in the Plan, then the debtor must establish that payment of the arrearages is reasonable and necessary for the maintenance and support of the debtor or the debtor's dependents. The Plan must provide for such arrearages in Part 5.3 and designate the treatment of the lease or contract in Part 6.1. The arrearages claim will be the amount in the allowed proof of claim, unless modified by an amended claim or order of the court.

RULE 2090-1
ATTORNEYS - ADMISSION TO PRACTICE

(a) **Bar of the Utah Bankruptcy Court.** The bar of this court consists of all attorneys admitted to practice in the United States District Court for the District of Utah under DUCivR 83-1.1. An attorney who is a member of the Utah State Bar, but not a member of the bar of this court, may not appear before this court.

(b) **Participation of an Attorney Admitted to the Local Bar.** An attorney admitted to the bar of this court under DUCivR 83-1.1 must comply with all of the obligations imposed by these Local Rules and other applicable rules and standards, including, without limitation:

(1) The responsibility to be present at all scheduled proceedings in which the attorney intends to participate, including the § 341 Meeting, hearings, pretrial conferences, and trial; and

(2) The responsibility to comply with all applicable rules of this court, including, without limitation, [Local Rule 5005-1](#) (Filing Requirements), [5005-2](#) (Electronic Filing), and [9073-1](#) (Hearings).

(c) **Admission Pro Hac Vice.** Attorneys who are not active members of the Utah State Bar and the Bar of the United States District Court for the District of Utah but who are active members in good standing of the bar of the highest court of another U.S. jurisdiction or of the bar of any federal court may be admitted in the case by order of the court pursuant to the following procedures:

(1) **Motion for Admission.** Applicants must present a written motion for admission pro hac vice made by an active member in good standing of the bar of this court. Local counsel must file a written motion for the applicant's admission pro hac vice that substantially complies with Local Form 2090-1. For nonresident applicants, unless otherwise ordered by a judge of this court, such motion must be granted only if the applicant associates an active local member of the bar of this court with whom opposing counsel and the court may communicate regarding the case and upon whom papers will be served. Applicants who are new residents, unless otherwise ordered by the court, must state either that (i) they have taken the Utah State Bar examination and are awaiting the results,

(ii) that they are scheduled to take the next bar examination; or (iii) they have applied for admission by reciprocity.

(2) **Application and Fee.** Applicants must complete and attach an application for admission pro hac vice to the Motion for Admission that substantially complies with Local Form 2090-1-A. The Application must include the case caption and number, if any, of all pending cases in this court in which the applicant is an attorney of record. Applicant must state under penalty of perjury that he/she is a member in good standing of the bar of the highest court of another U.S. jurisdiction or of the bar of any federal court. For nonresident applicants, the name, address, Utah State Bar identification number, telephone number, and written consent of an active local member of this court's bar to serve as associate counsel must be filed with the application. The application also must be accompanied by payment of the prescribed admission fee.

(3) **Compliance with Rules.** Attorneys admitted under this rule must comply with all applicable rules of this court, including, without limitation, [Local Rule 5005-1](#) (Filing Requirements), [5005-2](#) (Electronic Filing) and [9073-1](#) (Hearings); and all applicants must also comply with DUCivR 83-1.1(d)(1).

(d) **Attorneys for the United States.** DUCivR. 83-1.1(d)(1) and (e) applies to attorneys representing the United States Government or any agency or instrumentality thereof.

(e) **Standards of Professional Conduct.** All attorneys practicing before this court are governed by and must comply with these Local Rules (including the requirement under [Local Rule 5072-1\(a\)](#) to act in a civil and professional manner) and, unless otherwise provided, with the Utah Rules of Professional Conduct, as revised and amended, and the decisions of this court interpreting those rules and standards.

(f) **Student Practice.** Any eligible law student, as defined by DUCivR 83-1.6(b), who desires to enter an appearance in any case or proceeding must follow the procedures set forth in DUCivR 83-1.6(a)-(e). The law student must be familiar with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and these Local Rules.

RULE 2090-2
ATTORNEYS - REGISTRATION

All members of the bar of this court are required to comply with DUCivR 83-1.2, and to certify they are familiar with these Local Rules.

RULE 2090-3
ATTORNEYS - DISCIPLINE AND DISBARMENT

Upon motion of a party or on its own initiative, and after a notice and hearing, the court may impose sanctions on an attorney for violation of these Local Rules, the Federal Rules of Bankruptcy Procedure, the Federal Rules of Civil Procedure, or other applicable rules. Sanctions may include, but are not limited to, the assessment of costs, attorney's fees, fines, striking pleadings, revocation of ECF Filer privileges, or any combination thereof, against an attorney or a party. A person may also file a complaint under DUCivR 83-1.5(h). The court or a trustee may refer under 18 U.S.C. § 3057 any appropriate matter regarding an attorney's conduct to the United States Attorney's office for action.

RULE 2091-1
DEBTOR'S ATTORNEYS - SCOPE OF REPRESENTATION

(a) **Scope of Representation.** A debtor's attorney must represent and advise the debtor in all aspects of the case, including the § 341 Meeting, motions filed against the debtor, reaffirmation agreements, agreed orders, and other stipulations with creditors or third parties, and post-confirmation matters. 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) **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 following the procedures set forth in [Local Rule 2091-2](#). The motion shall be filed in the adversary proceeding and not in the main bankruptcy case.

RULE 2091-2

ATTORNEYS - SUBSTITUTION OR WITHDRAWAL OF ATTORNEY

(a) **Substitution.** Whenever an attorney of record in a pending case will be replaced by another attorney who is an active member of this court, a notice of substitution of counsel must be filed. The notice must (i) be signed by both attorneys; (ii) include the attorneys' bar numbers; (iii) identify the parties represented; (iv) be served on all parties; and (v) verify that the attorney entering the case is aware of and will comply with all pending deadlines in the matter. Upon the filing of the notice, the withdrawing attorney will be terminated from the case, and the new attorney will be added as counsel of record. When an attorney of record leaves a law firm, the law firm is responsible for filing a notice of substitution of counsel in accordance with this section and identifying the individual attorney with primary responsibility for the case.

(b) **Withdrawal Leaving a Party Without Representation.**

(1) No attorney will be permitted to withdraw as attorney of record in any pending bankruptcy case or adversary proceeding, thereby leaving a party without representation, except upon submission of:

(A) A motion to withdraw as counsel in the form prescribed by Local Form 2091-2 that includes (i) the last known contact information of the moving attorney's client(s), (ii) the reasons for withdrawal, (iii) notice that if the motion is granted and no notice of substitution of counsel is filed, the client must file a notice of appearance within 21 days after entry of the order, unless otherwise ordered by the court, (iv) notice that pursuant to [Local Rule 9011-2\(a\)](#), no corporation, association, partnership, limited liability company or other artificial entity may appear pro se, but must be represented by an attorney who is admitted to practice in this court, and (v) certification by the moving attorney that the motion was sent to the moving attorney's client and all parties; and

(B) A proposed order granting motion to withdraw as counsel in the form prescribed by Local Form 2091-2-A stating that (i) unless a notice of substitution of counsel is filed, within 21 days after entry of the order, or within the time otherwise required by the court, the unrepresented party shall file a notice of appearance, (ii) that no corporation, association, partnership, limited liability company or other artificial entity may appear pro se, but must be represented by an

attorney who is admitted to practice in this court, and (iii) that a party who fails to file such a notice of substitution of counsel or notice of appearance may be subject to sanction pursuant to Fed. R. Civ. P. 16(f)(1), including but not limited to dismissal or default judgment.

(2) No attorney of record will be permitted to withdraw after an action has been set for hearing or trial unless (i) the motion to withdraw as counsel includes a certification signed 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; (ii) the motion to withdraw as counsel includes a certification signed by the moving attorney's client indicating that the party is prepared for hearing or trial as scheduled and is eligible pursuant to [Local Rule 9011-2\(b\)](#) to appear pro se at the hearing or trial; or (iii) good cause for withdrawal is shown, including without limitation, with respect to any scheduling order then in effect.

(3) Withdrawal may not be used to unduly prejudice the non-moving party by improperly delaying the litigation.

(c) **Withdrawal With and Without the Client's Consent.**

(1) With Client's Consent.

(A) In the Bankruptcy Case. Where the withdrawing attorney has obtained the written consent of the client, such consent must be submitted with the motion.

(B) In an Adversary Proceeding. If withdrawing from representation in an adversary proceeding, 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 motion may be presented to the court without notice and a hearing.

(2) Without Client's Consent.

(A) In the Bankruptcy Case. Where the moving attorney has not obtained the written consent of the client, the motion must contain (i) a certification that the client has been served with a copy of the motion to withdraw as counsel;

(ii) a description of the status of the case including the dates and times of any scheduled court proceedings, requirements under any existing court orders, and any possibility of sanctions; and, if appropriate; (iii) certification by the moving attorney that the client cannot be located or, for any other reason, cannot be notified regarding the motion to withdraw as counsel.

(B) In an Adversary Proceeding. If withdrawing from an adversary proceeding, the motion must be accompanied by a statement of the moving attorney certifying that: (i) the attorney has sent the client written notification advising the client that the attorney will not be representing the client in the adversary proceeding, (ii) advising the client of the last date to answer the complaint, and (iii) 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 the client cannot be located or for whatever reason cannot be notified of the pendency of the motion.

(d) Procedure After Withdrawal.

(1) Upon entry of an order granting a motion to withdraw, the action shall be stayed until 21 days after entry of the order, unless otherwise ordered by the court. The court may in its discretion shorten the 21-day stay period.

(2) The court will enter the order and serve it on all parties and the withdrawing attorney's client at the address provided in the motion to withdraw as counsel, which order will specifically advise the parties of the terms of this rule.

(3) Within 21 days after entry of the order, or within the time otherwise required by the court,

(A) any individual whose attorney has withdrawn shall file a notice of pro se appearance or new counsel shall file an appearance on that party's behalf.

(B) new counsel shall file an appearance on behalf of any corporation, association, partnership, or other artificial entity whose attorney has withdrawn. Pursuant to [Local Rule 9011-2\(a\)](#), no such entity may appear pro se, but must be represented by an attorney who is admitted to practice in this court.

(4) After expiration of the stay period, either party may request a scheduling conference or submit a proposed amended scheduling order.

(5) An unrepresented party who fails to appear within 21 days after entry of the order, or within the time otherwise required by the court, may be subject to sanction pursuant to Fed. R. Civ. P. 16(f)(1), including but not limited to dismissal or default judgment.

COMMENT (2014)

This rule was adopted in conjunction with amendments to Local Rule 2091-1. The rule sets forth the procedures for attorneys who are seeking to withdraw as counsel of record as opposed to debtor's counsel seeking to be relieved of their obligation to represent the debtor in adversary proceedings under Local Rule 2091-1. The rule is intended to ensure that the attorney's client is informed of the status of the case, the need to obtain new counsel or proceed *pro se*, and that they may be subject to sanction under Federal Rule of Civil Procedure 16(f)(1).

RULE 3002.1-1
PROCEDURE FOR HOLDERS OF HOME EQUITY LINES OF CREDIT
(“HELOC”) TO FILE NOTICES OF PAYMENT CHANGES.

If a claim arises from a home equity line of credit agreement (“HELOC”), the holder of that claim may elect to file the notice of payment change required by Fed. R. Bankr. P. 3002.1(b) on a twice-yearly basis by doing the following:

(a) Send the debtor monthly payment statements consistent with the terms of the lending agreements. These periodic statements must notify the debtor of any payment changes under the HELOC agreement that may occur between the filing of each twice-yearly notice; and,

(b) File a notice of payment change on the first day of December and June of each year following the petition date. The twice-yearly notice shall include (i) the current monthly payment amount; and (ii) the history of any payment changes since the last notice of payment change or since the filing of a proof of claim. If the petition date is less than 30 days before either the first day of December or June of the petition year, then the first semi-annual notice shall be filed on or before the next reporting date.

The debtor shall retain its rights under Fed. R. Bankr. P. 3002.1(b)(2). Monthly payment statements or the twice-annual notice of payment change mailed to a debtor under this rule are not, without further cause, a violation of the automatic stay.

RULE 3003-1

CHAPTER 11 BAR DATE FOR FILING PROOF OF CLAIM OR INTEREST

(a) **Bar Date in Chapter 11 Cases**. Unless otherwise ordered by the court, in a chapter 11 case, a proof of claim or interest is timely filed if it is filed not later than 90 days after the first date set for the 341 Meeting, or, if filed by a governmental unit, not later than 180 days after the date of the order for relief.

(b) **Notification of Bar Date in Chapter 11 Cases**. Unless otherwise ordered by the court, the clerk's office should state the bar dates for filing proofs of claim or interest on the notice entitled "*Notice of Commencement of Case under the Bankruptcy Code, Meeting of Creditors, and Fixing of Dates*" issued in chapter 11 cases.

RULE 3007-1
OBJECTIONS TO CLAIMS

(a) **Form of the Objection.** Any objection to a proof of claim should state with specificity the factual and legal basis for the disallowance, bifurcation, or reclassification of the claim. Failure to state sufficient grounds to overcome the presumption of allowance of § 502(a) may result in a denial of the objection even in the absence of a response by the claimant.

(b) **Service of the Objection.** Service of the objection shall be made on the claimant in the manner proscribed by Fed. R. Bankr. P. 3007.

(c) **Notice of Hearing on Objection to Claim.** A party objecting to a claim must provide notice of the objection, the deadline to respond to the objection, and the time and place of the hearing on the objection in accordance with [Local Rule 9013-1\(d\)](#), Fed. R. Bankr. P. 3007, and Official Form 20B (Notice of Objection to Claim). The hearing must be set out with sufficient time for a response and a reply to be timely filed as provided below. A notice required by this rule may include a statement that the objection may be granted without a hearing unless a response is timely filed.

(d) **Response to Objection to Claim.** A response to an objection to a claim must be filed and served within 30 days after notice of the claim objection is served. The objecting party may file a reply to the response within the appropriate deadline, which in no case should be less than 4 days before the date set for the hearing. If a response is not timely filed, the court may sustain the objection without a hearing pursuant to [Local Rule 9013-1\(f\)](#)

RULE 3011-1
PROCEDURE FOR PAYMENT OF UNCLAIMED FUNDS

(a) **Requirements for Payment of Unclaimed Funds**. The Court may not disburse unclaimed funds without an application for payment of unclaimed funds, supporting documentation, notice of the application, and a court order authorizing payment of unclaimed funds.

(b) **Application for Payment of Unclaimed Funds**. The following documentation is required in order to obtain a court order authorizing payment of unclaimed funds:

(1) **Requirements for Individuals**. An application for payment of unclaimed funds should substantially conform to Local Form 3011-1. Claimant must submit a photocopy of a valid photo identification issued by a government entity, such as a driver's license or passport. The application shall include the last four (4) digits of the claimant's social security number.

(2) **Requirements for Assignee of Claimant or Representative of Estate of a Deceased Claimant**. An application for payment of unclaimed funds submitted by an Assignee of Claimant or Representative of Estate of a Deceased Claimant should substantially conform to Local Form 3011-1. If the claimant is an assignee, claimant must provide documents establishing the chain of succession and assignment from the original claimant as proof of entitlement to the funds. If the claimant is a representative of the estate of a deceased claimant, certified copies of all probate documents to substantiate the representative's right to act on behalf of the decedent's estate must be provided as proof of entitlement. The assignee or the representative must comply with paragraph (1) above.

(3) **Requirements for Corporations**. An application for payment of unclaimed funds submitted by a corporation should substantially conform to Local Form 3011-1. In addition, if the claimant is a successor corporation, claimant must provide documents establishing the chain of succession of the original corporate claimant as proof of entitlement to the funds. The application shall also include the tax identification number of the corporate claimant.

(4) **Requirements for Funds Locators**. An application for payment of unclaimed funds submitted by a funds locator should substantially conform to Local Form 3011-1. In addition, the funds locator shall provide documentation establishing their authorization to

act on behalf of claimant. The application shall also include the tax identification number or the last four digits of the claimant's social security number.

(c) **Service of the Application.** An application for payment of unclaimed funds and a notice that any objection to the application must be filed within twenty-one (21) days from the date of service. The application and notice shall be filed with the Bankruptcy Court Clerk's office and served by mail other means to the debtor, debtor's attorney, , and the United States Attorney for the District of Utah. If the Claimant is not the original creditor or payee, the application and the notice must be served on the individual or entity for whom the funds were deposited.

(d) **Order Authorizing Disbursement of Unclaimed Funds.** If no objection is timely filed, the application and accompanying documents may be considered by the Court without a hearing. If an objection to the application is timely received, the matter will be referred to the Court for determination. The Court may *sua sponte* set a hearing on any application.

RULE 3022-1
FINAL REPORT/DECREE (CHAPTER 11)

(a) **Non-Individual.** A chapter 11 plan filed by a non-individual should set a date, not later than one year after the entry of the order confirming the plan, prior to which a final decree closing the case will be entered under § 350 and Fed. R. Bankr. P. 3022. Not later than 28 days before such date, the reorganized debtor should file, serve upon all interested parties, and set for hearing a motion for a final decree. The motion must set forth evidence of full administration for the purpose of entering the final decree. A party may object to entry of the final decree prior to the date set forth in the plan or prior to the expiration of one year from the entry of the order confirming the plan, whichever is earlier. The objection must be served on the reorganized debtor and debtor's attorney and must be set for a hearing. If the plan of reorganization does not provide a date certain for entry of a final decree or if the reorganized debtor fails to timely file a motion for a final decree, the court may enter the final decree on or after one year from entry of the order confirming the plan. The decree must specify that the case is closed upon entry of the final decree. The court may extend the time for entry of the final decree upon motion and notice to all parties.

(b) **Individual.** A final decree must be sought by an individual within 28 days after completion of all payments under the plan. The motion shall include a request for entry of discharge, if applicable, be served on all interested parties and be set for hearing. The motion shall set forth evidence of the completion of all payments under the plan, evidence that the debtor has met the requirements for a discharge under § 1141(d)(5)(C) and, if applicable, shall include any statement required under Fed. R. Bankr. P. 4004(c)(4) and 1007(b)(7). The final decree shall serve as a notice of the order of discharge of the individual debtor once all payments under the plan are complete.

RULE 4001-1
RELIEF FROM AUTOMATIC STAY

(a) **Motions for Relief from Stay**. A motion for relief from the automatic stay must be filed and served, with a notice of hearing, on the debtor, the debtor's attorney, the trustee, those parties designated in Fed. R. Bankr. P. 4001(a)(1), if applicable, and any co-debtor and co-debtor's attorney. The notice must substantially conform to Official Form 420A and identify the date by which objections must be filed and served. A notice required by this rule may include a statement that the relief requested may be granted without a hearing unless an objection is timely filed. All motions requesting relief from the automatic stay must comply with [Local Rule 9013-1](#) (*Motion Practice - Set Hearing*) and [Local Rule 9004-1](#) (*Caption - Papers, General*).

(1) A motion for relief from stay shall plead with specificity the facts supporting the elements of § 362(d), including;

(A) Citation to the specific Bankruptcy Code section(s) under which relief is being sought;

(B) A description of the collateral for which relief is requested;

(C) Proof of a legally enforceable debt;

(D) If such proof is attached to a previously filed claim, the motion can incorporate by reference the attachment to the proof of claim.

(E) If the movant is the assignee of the debt, a statement identifying the original creditor;

(F) Proof of a perfected security interest, or reference to such proof attached to a filed proof of claim;

(G) The value of the collateral;

(H) The total amount owed to the moving creditor;

(I) The number and amount of delinquent pre-petition payments; and

(J) The dates and amounts of delinquent post-petition payments.

(2) State with specificity any alleged lack of adequate protection under § 362(d)(1), such as whether the collateral is insurance, the amount of unpaid taxes, whether the asset is rapidly depreciating and the nature of such depreciation, and the property's value in relationship to the allegation of lack of adequate protection.

(3) As to relief under § 362(d)(2), describe the basis for the allegation that there is not any equity for the debtor by providing the value and its relationship to the amount owed, and describe how the collateral is not necessary for an effective reorganization. Also, provide information regarding the status of other liens and encumbrances, if known.

(4) As to other “cause” under § 362(d)(1), describe any pertinent information or reasons why relief should be granted.

(b) Objections to Motions for Relief from Stay. An objection to a motion for relief from stay must be filed and served within the response period set forth in [Local Rule 9006-1\(b\)\(2\)](#). The objection must admit or deny each factual allegation of the motion. A factual allegation is admitted for the purpose of the hearing on the motion unless the objecting party denies the factual allegation, or sets forth why the party cannot admit or deny the factual allegation. The movant may file a reply to the response within the time period fixed by [Local Rule 9006-1\(c\)](#).

(c) Hearings on Motions for Relief from Stay. Hearings on motions for relief from stay may be set as evidentiary hearings or a time for hearing objections to a motion for relief from stay may be reserved on the courts law and motion calendar.

(1) **Set Hearing.** If the movant obtains from the court a set date for the hearing on its motion for relief from stay in accordance with [Local Rule 9013-1](#), the hearing will be conducted as an evidentiary hearing. Unless otherwise ordered by the Court, the parties should be prepared to present evidence and live testimony at the hearing. The notice of hearing required under subsection (a) should state that the hearing will be an evidentiary hearing. If an objection is not timely filed the moving party may request, and the court may grant, the relief requested without a hearing pursuant to [Local Rule 9013-1\(f\)](#).

(2) **Opportunity for Hearing.** If the movant reserves a time for hearing on its motion for relief from stay on the court’s law and motion calendar in accordance with [Local Rule 9013-2](#), and if an objection is timely filed, the initial hearing will be conducted as a preliminary hearing. At the preliminary hearing detailed offers of proof should be made but no live testimony will be taken. The detailed offer of proof should describe the evidence to be presented, what the evidence tends to show and identify the grounds for admitting the evidence. If following the preliminary hearing there appears to be no genuine issues of material fact, the court may rule on the motion. If genuine issues of material fact are

demonstrated at the preliminary hearing, the court may set the matter for a final hearing, which may be an evidentiary hearing. If an objection is not timely filed the moving party may request, and the court may grant, the relief requested without a hearing pursuant to [Local Rule 9013-2\(f\)](#).

(d) **Waiver of Stay of Order Under Fed. R. Bankr. P. 4001(a)(3)**. Requests for waiver or reduction of the automatic 14-day stay of an order granting a motion for relief from stay shall set forth concisely but with specificity the basis for the proposed waiver or reduction of the 14-day stay. Failure to state an adequate basis for the waiver of the 14-day stay may result in a denial of such relief even if the motion is otherwise uncontested.

RULE 4001-2
FINANCING MOTIONS AND ORDERS

(a) **Motions**. Except as provided herein and elsewhere in these Local Rules, all financing motions, including cash collateral and financing requests under §§ 363 and 364 (“Financing Motions”), must be heard by motion filed under Fed. R. Bankr. P. 2002, 4001 and 9014.

(1) **Local Rule 4001-2 Disclosure**. All Financing Motions must recite whether the proposed order and/or underlying cash collateral stipulation or loan agreement contains any extraordinary relief, including that listed in subsections (a)(1)(A) through (a)(1)(G) below, identify the location of any such provision in the proposed order, cash collateral stipulation and/or loan agreement, and state the justification for the inclusion of such provision:

(A) Provisions that grant cross-collateralization protection (other than replacement liens or other adequate protection) to the prepetition secured creditors (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law);

(B) Provisions or findings of fact that bind the estate or all parties in interest with respect to the validity, perfection or amount of a secured creditor’s prepetition lien or debt or the waiver of claims against the secured creditor without giving parties in interest at least 75 days from the entry of the order and the creditors’ committee, if formed, at least 60 days from the date of its formation to investigate such matters;

(C) Provisions that seek to waive, without notice, whatever rights the estate may have under § 552(b);

(D) Provisions that grant immediately to the prepetition secured creditor liens on claims and causes of action arising under §§ 544, 545, 547, 548, and 549;

(E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor’s prepetition debt, other than as provided in § 552(b);

(F) Provisions that provide disparate treatment for professionals retained by a creditors' committee from that provided for professionals retained by the debtor; and

(G) Provisions that prime any secured lien, without the consent of that lienor.

(2) Summary. All Financing Motions must also provide a summary of the essential terms of the proposed use of cash collateral and/or financing (e.g., the maximum borrowing available on a final basis, the interim borrowing limit, borrowing conditions, interest rate, maturity, events of default, use of funds limitations, and protections afforded under §§ 363 and 364.

(b) **Interim relief.** When Financing Motions are filed with the court on or shortly after the date of the entry of the order for relief, the court may grant interim relief pending review by interested parties of the proposed financing arrangements to avoid immediate and irreparable harm to the estate. In the absence of extraordinary circumstances, the court will not approve interim financing orders that include any of the provisions in subsection (a)(1)(A) through (a)(1)(G) of this rule.

(c) **Final Orders.** A final order on a motion under subsection (a) of this Local Rule will be entered only after notice and a hearing under Fed. R. Bankr. P. 4001 and [Local Rule 2002-1](#). Ordinarily, the final hearing should be held at least 14 days following the organizational meeting of the creditors' committee contemplated by § 1102.

**RULE 4002-1
DUTIES OF DEBTOR**

(a) **Filing of Changes of the Debtor's Address.** The debtor must file and serve on the United States Trustee, and the trustee, if any, every change of the debtor's address until the case is closed or dismissed.

(b) **Information Requested by the Trustee or by the United States Trustee.** In addition to financial information the debtor is required to provide as set forth in Fed. R. Bankr. P. 4002(b), the debtor must produce the following materials no later than 14 days after a written request by the trustee or United States Trustee:

- (1) bank statements, canceled checks, and checkbooks; and
- (2) any other documents, recorded information, or other information reasonably necessary for the effective administration of the estate.

(c) **Documents Required to be Provided to the United States Trustee.** Individual chapter 7 debtors whose debts are primarily consumer debts and who are above the applicable State Median Family Income as established by the Census Bureau shall provide to the United States Trustee within 14 days after the petition date a copy of the most recent Federal income tax return and copies of all payments advices for the 6-month period ending on the last day of the calendar month immediately preceding the date of the commencement of the case.

(d) **Individual Debtor's Failure to Provide Documentation at or Before the § 341 Meeting.**

(1) In a chapter 13 case, the court may dismiss a voluntary case, except a case that has been converted from a Chapter 7 case to a Chapter 13 case, pursuant to the procedures set forth in [Local Rule 2083-1\(g\)](#) if the debtor fails to timely file or provide documents in accordance with [Local Rules 1007-1\(a\)\(2\)](#), [2083-1\(e\)](#) and [2083-1\(g\)](#).

(2) In a case other than chapter 13, the court may dismiss a voluntary case, except a case that has been converted from a chapter 11 case to a chapter 7 case, if the debtor fails to timely provide any of the following documents:

- (A) Documents prescribed by and within the time frames set forth in § 521(e)(2)(A);
- (B) Documents prescribed by and within the times set forth in Fed. R. Bankr. P. 4002(b); or

(C) Documents prescribed by and within time frames set forth in subsections (b) or (c) of this Local Rule.

If the debtor fails to timely provide any of the prescribed documents, the trustee may file a notice of failure to comply and serve it on the debtor and the debtor's attorney. If the debtor fails to comply with subsection (c) the United States Trustee may file a notice of failure to comply and serve it on the debtor and the debtor's attorney. If an objection to the trustee's notice is not filed within 21 days the notice is served, 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). If a hearing on the objection is not held within 42 days after the objection is filed, the clerk must enter the order of dismissal, unless the court orders otherwise. 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, and the time fixed under Fed. R. Bankr. P. 4003(b)(1) for filing objections to exemptions under § 522(l).

(3) In a joint case where only one debtor meets the requirements of Fed. R. Bankr. P. 4002(b), the non-compliant debtor may be dismissed from the case.

RULE 5001-1
CLERK'S OFFICE – LOCATION & HOURS

(a) **Office of Record**. The court's office of record is in the Frank E. Moss United States Courthouse at 350 South Main Street, Salt Lake City, Utah 84101.

(b) **Hours of Business**. Unless the court orders otherwise, the clerk's office is open to the public between the hours of 8:00 a.m. and 4:30 p.m. on all days except Saturdays, Sundays, and legal holidays as set forth below:

- New Year's Day, January 1
- Birthday of Martin Luther King, Jr. (Third Monday in January)
- Presidents' Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- Independence Day, July 4
- Pioneer Day, July 24
- Labor Day (First Monday in September)
- Columbus Day (Second Monday in October)
- Veterans' Day, November 11
- Thanksgiving Day (Fourth Thursday in November)
- Christmas Day, December 25

RULE 5003-1
THE CLERK'S AUTHORITY

(a) **Orders, Judgments, and Other Documents.** The clerk may sign his or her name, unless directed by the court to sign or imprint the court's facsimile signature and enter the following without further directive from the court:

- (1) an order entering default for failure to plead or otherwise defend under Fed. R. Bankr. P. 7055;
- (2) a subpoena for a party not represented by an attorney;
- (3) an order of discharge;
- (4) an order of dismissal, as directed by Local Rules [2003-1\(a\)](#), [2082-1\(b\)](#), [2083-1\(f\)](#) and [7041-1](#), or similar dismissal orders arising from the failure of the debtor to respond to a motion to dismiss; and
- (5) any other order or document that does not require approval or order by the court under Fed. R. Civ. P. 77(c).

(b) **Review of Clerk's Actions.** The court may review, suspend, alter, or rescind the clerk's actions under this Local Rule.

RULE 5003-2
ACCESS TO COURT PAPERS

(a) **Access.** The public records of the court are available for examination in the clerk's office during the hours of business specified in [Local Rule 5001-1](#). Public records may not be removed from the clerk's office by members of the bar or the public except by order of the court, but the clerk will make and furnish copies of official public court records upon request and upon payment as required by the Bankruptcy Court Miscellaneous Fee Schedule or the Electronic Public Access Fee Schedule issued by the Judicial Conference in accordance with 28 U.S.C. § 1930(b). Access to public records is also available through the court's website, www.utb.uscourts.gov, and is available to the public free of charge utilizing access provided in the clerk's office.

(b) **Electronic Filing System.** A person may access case information at the court's website, www.utb.uscourts.gov, by obtaining a PACER log-in and password. A person who has PACER access may retrieve docket sheets and documents. All attorneys admitted to practice before the court must be ECF Filers, unless the court orders otherwise.

(c) **Sealed or Impounded Papers.** Papers ordered sealed or impounded by the court, or subject to a court order under Fed. R. Bankr. P. 9037(d), are not public records within the meaning of these Local Rules. Papers ordered sealed must be filed in paper format, and not electronically, unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of papers under seal may be filed electronically unless prohibited by law. A copy of the order must be attached to the papers under seal and be delivered to the clerk.

RULE 5005-1
FILING REQUIREMENTS

(a) **Filing of Papers.** Unless ordered otherwise, all ECF Filers (as defined in [Local Rule 5005-2\(b\)](#)) must file all papers required to be filed with the court electronically. Filers who are permitted by these Local Rules to file in paper format should file all pleadings, motions, proposed orders, and other papers with the clerk at the office of record in Salt Lake City, defined in [Local Rule 5001-1\(a\)](#), during the hours of business set forth in [Local Rule 5001-1\(b\)](#); provided, however, that when court is in session elsewhere in the district, such papers may be filed with the clerk or with the court at the place where court is being held. In extraordinary circumstances, the court may permit the filing of such papers with a judge or other court officer.

(b) **Redaction of Private Information.** The filing party is responsible for redacting any confidential information as required by Fed. R. Bankr. Pro. 9037, including all but the last four digits of a debtor's social security number and financial account numbers.

(c) **Date-Stamped Copies.** A Non-ECF Filer may, at the time of filing, present to the clerk a copy of the paper filed and request the clerk to imprint the clerk's date stamp on the copy. The date-stamped copy is prima facie evidence that the original was filed with the clerk on the date indicated by the clerk's stamp. An electronic receipt produced by CM/ECF is prima facie evidence of electronically filed documents.

(d) **Facsimile Filing.** Papers transmitted to the court via facsimile are not acceptable for filing and will not be docketed, but papers with facsimile signatures may be submitted for filing in accordance with these Local Rules in connection with declarations, affidavits, and verifications. The paper bearing the original signature must be retained by the filer in accordance with these Local Rules.

RULE 5005-2
FILING PAPERS - ELECTRONIC FILING

(a) **When Electronic Filing is Required.** Except as provided for herein, all attorneys must file all papers with the Court using the Electronic Case Filing system (“ECF”).

(b) **Eligibility and Registration of ECF Filers and Applicable Rules.** Attorneys admitted to the bar of this court (including those admitted under [Local Rule 2090-1\(b\)](#)), United States Trustees and their assistants, bankruptcy administrators and their assistants, private trustees, and individuals as the court deems appropriate, must register as ECF Filers. Entities, such as law firms or corporations, may not be ECF Filers. Registration as an ECF Filer shall be made using the form located on the court’s website at www.utb.uscourts.gov. The form requires the ECF Filer’s name, address, telephone number, electronic address, and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this court, or in the case of an attorney admitted under [Local Rule 2090-1\(b\)](#), a copy of the order granting the admission, and the ECF Filer’s agreement to comply with the court’s usage protocols posted on the court’s website: www.utb.uscourts.gov.

(1) **Waiver and Consent.** Registration as an ECF Filer constitutes: (A) waiver of the right to receive notice by first class mail and consent to receive notice electronically; (B) waiver of the right to service by personal service or first-class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004; and (C) consent to abide by the court’s posted usage protocols. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.

(2) **Log-in and Password.** Once registered and training is complete, the ECF Filer will receive notification of a user log-in and password. No ECF Filer or other person may knowingly permit or cause to permit an ECF Filer’s password to be used by anyone other than an authorized agent of the ECF Filer.

(3) **Suspension and Termination.** For cause, and without notice and a hearing, the court may temporarily suspend an ECF Filer from using the Electronic Filing System. After notice and a hearing, the court may terminate an ECF Filer’s use of the Electronic Filing System for cause, including abuse of the Electronic Filing System or failure to

comply with these Local Rules or the Court's posted usage protocols, and impose such sanctions as are appropriate.

(c) **Consequences of Electronic Filing.** The filing of any paper by an ECF Filer, including a petition, pleading, motion, claim or other document, is deemed to be made with the knowledge, consent, and authorization of the ECF Filer whose login is used to file such paper.

(1) **Filing, Entry on the Docket, and Official Record.** Electronic transmission of a document to the Electronic Filing System consistent with these Local Rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the Local Rules, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Bankr. P. 5003. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed, unless the court orders otherwise. A document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

(2) **Deadlines.** Filing a document electronically does not alter the filing deadline for that document. Filing must be completed before midnight local time where the court is located in order to be considered timely filed that day.

(d) **Attachments and Exhibits.** ECF Filers must submit in electronic form all documents referenced as exhibits or attachments, unless the court permits conventional filing. An ECF Filer must submit as exhibits or attachments only those excerpts of the referenced documents that are germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such. ECF Filers who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or to file the complete document electronically. Responding parties may timely file additional excerpts electronically or complete documents conventionally that they believe are germane.

(e) **Retention Requirements.** Documents that are electronically filed and require original signatures other than that of the ECF Filer must be maintained in paper form by the ECF Filer until one year after the case is closed. On request of the court, the ECF Filer must provide original documents for review.

(f) **Signatures.** The user log-in and password required to present documents on the Electronic Filing System are the ECF Filer's signature for all purposes, including 18 U.S.C. § 151 *et seq.*, 28 U.S.C. § 1746, all sections of the Bankruptcy Code, Fed. R. Bankr. P. 9011 and all other provisions of the Federal Rules of Bankruptcy Procedure, and the Local Rules. Each document filed electronically must include a caption in compliance with [Local Rule 9004-1\(a\)](#). The name of the ECF Filer under whose log-in and password the document is submitted must be preceded by an "/s/" and typed in the space where the signature would otherwise appear in the signature block, or by a graphical signature.

(1) **Unauthorized Use.** No ECF Filer or other person may knowingly permit or cause to permit an ECF Filer's password to be used by anyone other than an authorized agent of the ECF Filer.

(2) **Multi-Signature Documents.** Documents requiring signatures of more than one party must be electronically filed either by: (A) submitting a scanned document containing all necessary signatures; (B) representing the consent of the other parties on the document; (C) identifying on the document the parties whose signatures are required and by the submission of a notice of endorsement by those parties no later than 3 business days after filing the document; or (D) in any other manner approved by the court on a case by case basis.

(g) **Technical Failures.** An ECF Filer or other party whose filing is made untimely as the result of a technical failure by the court may seek appropriate relief from the court.

RULE 5005-3
FILING PAPERS - SIZE AND FORM OF PAPERS

(a) **Size and Margins.** All pleadings, motions, and other papers electronically filed must have the appearance of 8-1/2 x 11-inch white paper, with a top margin of not less than 1-1/2 inch, a left-hand margin of not less than one inch, and plainly typewritten or printed in not less than 12-point type on only one side of each page. All orders presented for filing must have a top margin of not less than 2-1/2 inches on the first page to accommodate the court's signature stamp.

(b) **Form.** Originals and copies of all papers must be double-spaced except for quoted material, footnotes, and form documents approved by the court. Each page must be numbered consecutively at the bottom of the page. This format may vary to comply with any applicable forms adopted by this court or prescribed by the Judicial Conference of the United States. Service copies may not be reduced by more than 2 reduced pages per printed side.

(c) **Encouraged and Impermissible Hyperlinks in Papers.** As a convenience to the court, practitioners are encouraged to utilize hyperlinks in a manner consistent with this rule. A hyperlink is a reference within an electronically-filed document that permits a user to click on the link so as to be directed to other content. In a PDF document, these can consist of actual links within the document or "Bookmarks" that exist in a side-panel that link to various portions and exhibits in a document. Standard legal citations must still be used so that those who desire to retrieve referenced material may do so without the use of an electronic service.

(1) **Encouraged Hyperlinks.**

(A) Hyperlinks or Bookmarks to other portions of the same document, such as references to exhibits or testimony, are encouraged.

(B) Hyperlinks to a government site or to legal authority from a recognized electronic research services, such as Westlaw, Lexis/Nexis, Google Scholar, Casemaker, Fastcase or Findlaw are encouraged.

(2) **Impermissible Hyperlinks.** A hyperlink to any other internet resource is not permitted but may be included as a plain text address that can be cut and pasted into an internet browser for viewing. Parties are responsible for any malicious or inappropriate content contained in such links. At times, the better practice may be to attach the referenced **information as an exhibit.**

RULE 5007-1
RECORD OF PROCEEDINGS AND TRANSCRIPTS

A certified sound recording or a transcript of a proceeding, including a § 341 Meeting, that is to be filed with or otherwise presented to the court for any purpose must be certified by a court reporter certified by the National Court Reporters Association.

**RULE 5072-1
DECORUM**

(a) **Civility.** Attorneys and parties should conduct themselves in bankruptcy proceedings, including § 341 Meetings and discovery proceedings, in a civil and professional manner.

(b) **Courtroom Conduct of Attorneys.**

(1) Unless the court permits otherwise, only one attorney for each party may examine or cross-examine a witness and not more than two attorneys for each party may argue the merits of the action.

(2) To maintain decorum in the courtroom when court is in session, attorneys must abide strictly by the following rules, unless the court permits otherwise:

(A) Attorneys must stand when examining and cross-examining witnesses.

(B) Attorneys must not address questions or remarks to an opposing attorney without first obtaining permission from the court. Appropriate and quiet informal consultations among attorneys off the record are not precluded if this does not delay or disrupt the progress of the proceedings.

(C) The examination and cross-examination of witnesses must be limited to questions addressed to witnesses. Attorneys must not make statements, comments, or remarks prior to asking a question or after a question has been answered.

(D) In making an objection, an attorney must state plainly and briefly the specific ground for an objection and must not engage in argument unless requested or permitted by the court.

(E) Only 1 attorney for each party may object to the testimony of a witness being questioned by an opposing party. The objection must be made by the attorney who has conducted or is to conduct the examination of the witness.

(F) Attorneys must examine a witness from the lectern, unless necessary to approach the witness or the clerk's desk to present or examine an exhibit.

(c) **Courtroom Argument.** The court may determine the length of time and the sequence of final arguments of the parties. The party having the primary burden of proof must open and close the final arguments unless the court directs otherwise.

RULE 5080-1
BANKRUPTCY COURT FEES – GENERAL

(a) **Payment of Fees.** As authorized by 28 U.S.C. § 1930, 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 the credit card payment or electronic funds transfer was 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 one 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 103B. 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, file 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 14

days to pay the filing fee in full, file 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 file an application to pay in installments, or the clerk will enter an order dismissing the case.

RULE 5090-1
VISITING JUDGES

In all matters assigned to a visiting judge, parties must keep the assigned scheduling clerk informed of developments affecting settlements, postponements, or lengths of time needed before the court. A party must report any developments no later than 7 days before the date the matter is scheduled before the court.

RULE 6005-1
STANDING AUCTIONEERS

(a) **General.** This court may appoint any number of standing auctioneers pursuant to the procedures set forth below for a term of [three or five] years. All pleadings or documents pertaining to standing auctioneers, including without limitation, applications, objections, requests for notice or orders of appointment shall be filed in the miscellaneous proceeding of *In re Standing Auctioneers*. The court shall maintain a list of all current appointed standing auctioneers and of any person requesting special notice of standing auctioneer proceedings at <https://www.utb.uscourts.gov/standing-auctioneers>.

(b) **Appointment.** To be appointed as a standing auctioneer, an auctioneering company, whether a sole proprietorship, partnership, or corporation, must submit an Application for Appointment as a Standing Auctioneer with the court and serve a copy of the application on the United States Trustee, all Chapter 7 Trustees, the Chapter 13 Trustee and any party requesting special notice as reflected at <https://www.utb.uscourts.gov/standing-auctioneers>.

(1) The Application shall include a declaration signed by an individual, that at least one person employed by such company has met the following qualifications:

(A) The candidate has 3 or more years of experience as an active auctioneer during the 4-year period prior to making the application. “Active auctioneer” experience is defined as devoting the majority of such person’s work time to the auctioneering business, including the preparation for, promoting of, and conducting of auctions;

(B) The candidate is duly licensed by a state, municipality, or some other governmental entity;

(C) The candidate is at least 21 years of age;

(D) The candidate has not been convicted of any felony or misdemeanor involving forgery, embezzlement, obtaining money under false pretenses, extortion, conspiracy to defraud, or other like offenses;

(E) The auctioneering company maintains property damage and theft coverage of no less than \$100,000, or in a higher amount if requested by the United States Trustee. The policy must cover only estate property;

(F) The auctioneering company maintains an on-site liability insurance

policy with limits for bodily injury of at least \$100,000 per person and \$300,000 per occurrence; and

(G) The auctioneering company has posted or will post with the United States Trustee a \$100,000 bond in favor of the United States and conditioned on the faithful performance of its official duties. If at any time the aggregate value of goods in the auctioneer's custody exceeds the amount of the bond, then the auctioneer shall obtain a separate bond or bonds so that the full amount of all goods of various bankruptcy estates in the auctioneer's custody is covered.

(2) The Application shall include letters of reference from at least 2 individuals, other than relatives, who have personal knowledge of the candidate's honesty, truthfulness, and good repute as an auctioneer.

(3) The Application shall include a declaration that the application and all accompanying documents have been served on the United States Trustee, all Chapter 7 Trustees, the Chapter 13 Trustee, and any party requesting special notice.

(4) Within 21 days after service of the Application, any party may file an objection to the Application and set the objection for a hearing. The objecting party must give notice of the hearing to the Applicant, the United States Trustee, the Panel Trustees, the Standing Trustee, and any party requesting special notice.

(5) If no objection is filed, the Court may set the Application for hearing, deny the application, or enter an order appointing the applicant as a standing auctioneer for a period of three years.

(c) **Effect of Appointment.** In a Chapter 7 case where the gross sale proceeds of an auction are reasonably anticipated by the trustee to be less than \$50,000, trustees may use any of the standing auctioneers to liquidate personal property of the estate without further permission of the court. The use of a standing auctioneer is subject to the limits of § 327(a) that the auctioneer not hold any interest adverse to the estate and that the auctioneer is disinterested. The fact that an auctioneer has been appointed as a standing auctioneer should not be construed as an order directing the trustees to employ the auctioneer. Trustees retain the privilege of selecting, subject to the requirements of § 327, auctioneers and others to serve the estate.

(d) **Procedure for Sales by Appointed Standing Auctioneers.** The following

procedures apply to all sales held by a standing auctioneer:

- (1) Any motion to approve a sale to be conducted by a standing auctioneer should include a declaration that the auctioneer is disinterested and does not hold any interest adverse to the estate.
- (2) The auctioneer must comply with any order regarding the sale;
- (3) The auctioneer must give appropriate public notice of the sale and give the trustee evidence of the notice with the final accounting;
- (4) The auctioneer must not, without the trustee's consent, incur expenses for transporting property. Unless otherwise agreed or ordered, the debtor must transport property to the auctioneer;
- (5) All sales must be for cash, unless the trustee directs otherwise; and
- (6) Immediately after the sale, the auctioneer must forward the proceeds, less a commission, to the trustee with a full accounting.

(e) **Commissions.** The commission of any standing auctioneer must not exceed 15% of the gross proceeds of the sale, with the exact rate to be negotiated by the trustee and the standing auctioneer on a case-by-case basis.

(f) **Expenses.** Notwithstanding the limitation on compensation set forth in subsection (e), if a standing auctioneer, at the express direction of the trustee, incurs expenses related to the sale of property, he or she is entitled to reimbursement for actual expenses out of the estate.

(g) **Termination, Removal and Resignation.**

(1) An appointment as a standing auctioneer shall be for a period of [three or five] years and shall terminate five years after the date of appointment, without prejudice to the rights of a standing auctioneer to reapply for appointment as a standing auctioneer at any time after 90 days before the end of the term.

(2) A standing auctioneer must notify the court and the United States Trustee immediately if he or she no longer qualifies for appointment as a standing auctioneer, in which event the court shall terminate the appointment without further notice or hearing.

(3) A standing auctioneer may tender his or her resignation at any time by submitting it in a writing to the court and the United States Trustee, in which event, the court shall terminate the appointment without further notice or hearing.

(4) After such notice and opportunity for a hearing as the court deems appropriate, the court may terminate the appointment as a standing auctioneer before the end of the [three or five] year period for cause and on such terms as the court deems appropriate. Such termination of such appointment may be raised sua sponte or on motion the United States Trustee, a Panel Trustee, a Standing Trustee, or any other party in interest.

(h) **Hearings on Sales Conducted by a Standing Auctioneer.** A hearing scheduled on a sale to be conducted by a standing auctioneer may be stricken if no objection to the sale is timely filed.

**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 endorse 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 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.

RULE 6070-1
TAX RETURNS AND TAX REFUNDS

(a) **Tax Requirements in Chapter 11, 12 and 13 Cases.** Debtors in possession, chapter 11 trustees, and chapter 12 and 13 debtors, are subject to the requirements and regulations of the Internal Revenue Service and any applicable state or local taxing authority. Debtors who are not required to collect federal taxes as described in subsection (1) below and are not required to collect state and local taxes as described in subsection (2) below are required to comply only with subsection (3) below.

(1) **Federal Taxes.** The debtor, debtor in possession or the trustee must comply with the Internal Revenue Code and regulations regarding withholding of taxes from the wages of employees, the payment of the employer's FICA and FUTA tax liabilities, the making of deposits of such taxes, and the filing of employment tax returns as well as any excise or income tax returns for which the estate is liable.

(2) **State Taxes.** The debtor, debtor in possession or the trustee must comply with the laws and regulations of any applicable state or local taxing authority regarding withholding of taxes from the wages of employees; the collection and remittance of other types of tax which the estate is required to collect, deposit with, or remit to any applicable state or local taxing authority; the payment of unemployment insurance contributions to the appropriate state or local taxing authority; and the timely filing of returns accounting for the same.

(3) **Filing and Payment.** The debtor, debtor in possession or trustee must: (A) timely file any required tax returns with the Internal Revenue Service; (B) timely file any required tax returns with any applicable state or local taxing authority; (C) timely file unemployment insurance contribution reports with applicable state or local authorities; and (D) pay taxes on a current basis. Returns and reports filed with and payments made to the Internal Revenue Service, the Utah State Tax Commission and the Utah Department of Workforce Services should be delivered to the addresses stated in [Local Rule 2002-1\(h\)](#), not to the regular addresses for filing the returns and reports.

(b) **Tax Returns in Chapter 12 Cases.** The chapter 12 debtor must, at least 30 days before the first day required by law for the filing of the debtor's federal tax return(s), forward to the trustee a full and complete copy of the federal tax return(s) for each preceding year or portion

thereof while the case is pending.

(c) **Tax Returns in Chapter 13 Cases.**

(1) A chapter 13 debtor must, no later than the day before the date of the first-scheduled § 341 Meeting, file with the appropriate tax authorities, any and all tax returns required under applicable nonbankruptcy law for all taxable periods ending during the four-year period before the filing of the petition.

(2) A chapter 13 debtor must provide to the trustee, not later than 7 days before the date of the first-scheduled § 341 Meeting, a copy of the Federal and state income tax returns required under applicable law (or at the election of the debtor, a transcript of such return) for the most recent tax year ending immediately before the commencement of the case and for which a Federal or state income tax return was filed.

(3) No later than the day before the date of the first-scheduled § 341 Meeting, the debtor must file and serve on the trustee a declaration regarding tax returns in the form attached hereto as Local Form 6070-1.

(4) The debtor may request from the court an order extending the time period set forth in this subsection on notice to the trustee and applicable taxing authority. If the debtor fails to comply with paragraphs (1), (2) or (3) of this subsection in the time period therein or as extended by the court, the case may be dismissed under the procedures set forth in [Local Rule 2083-1\(g\)](#).

(d) **Modification of the Automatic Stay for Certain Assessments and Refunds of Taxing Entities.** Unless a party in interest objects and the court orders otherwise, the stay of § 362 is modified to provide for the following assessments and refunds in any case filed in this district. The Internal Revenue Service, Utah Tax Commission, and the Utah Department of Workforce Services are authorized to:

(1) assess tax liabilities reflected on voluntary filed tax returns and tax returns prepared under authority of applicable statutory provisions; and

(2) make refunds in the ordinary course of business to debtors who have filed cases under chapter 9, 12 or 13, to trustees appointed in chapter 7 and 11 cases, or, if a trustee has not been appointed in a chapter 11 case, to the debtor in possession.

RULE 7003-1
COVER SHEETS IN ADVERSARY PROCEEDINGS

A properly completed adversary proceeding cover sheet must be filed with the clerk at the commencement of each adversary proceeding unless the complaint is filed electronically. Unless documents are filed electronically, a properly completed civil cover sheet must be filed with the clerk with each notice of appeal and motion to withdraw the reference. Copies of the appropriate cover sheets may be obtained from the clerk.

RULE 7005-1
FILING OF DISCOVERY MATERIALS

In accordance with Fed. R. Civ. P. 5(d) and Fed. R. Bankr. P. 7005, disclosures under Fed. R. Civ. P. 26(a)(1) or (2) and Fed. R. Bankr. P. 7026, deposition transcripts and the following discovery requests and responses must not be filed until they are used in a case or proceeding or the court orders filing: (1) interrogatories, (2) requests for documents or to permit entry upon land, and (3) requests for admission. A party must file a notice of service of the foregoing materials on opposing parties. Filing the notice of taking deposition required by Fed. R. Bankr. P. 7030 satisfies the requirement of filing a notice of service with respect to depositions. This rule does not preclude the use of discovery materials at a hearing or at trial or as exhibits to motions. [Local Rule 9070-1](#) governs the custody and disposition of discovery materials introduced as trial exhibits. The originals of all discovery items covered by this rule and not filed with the court must be held by the party propounding them as custodian for the court.

RULE 7016-1
PRETRIAL PROCEDURES

(a) **Initial Pretrial Conference**. After the initial appearance of a defendant, the clerk must notify the parties of the date, time, and place of the initial pretrial conference under Fed. R. Bankr. P. 7016.

(b) **Parties' Planning Conference**. Under Fed. R. Civ. P. 26(f) and Fed. R. Bankr. P. 7026, the parties must confer as soon as practicable and prepare a Report of Parties' Planning Meeting which conforms substantially with Local Form 7016-1 attached to these Local Rules. No later than 14 days after the parties' planning conference, the parties are jointly responsible for filing Local Form 7016-1 with the court.

(c) **Scheduling Order**. At the conclusion of the initial pretrial conference, the court will enter a scheduling order in accordance with Fed. R. Bankr. P. 7016. Included in the scheduling order will be modifications of discovery requirements as the court deems appropriate. Unless otherwise ordered by the court, the requirements of the scheduling order, including deadlines, continue in force until disposition of the proceeding.

(d) **Expedited Adversary Proceeding**. At the initial pretrial conference, if the amount of the controversy is \$15,000 or less, or by consent of the parties, the court may order that the trial be scheduled on an expedited basis. The scheduling order will govern the procedure to be followed before and during an expedited trial.

(e) **Supplemental Pretrial Conferences**. At the request of a party or on the court's own motion, the court may schedule a supplemental pretrial conference to expedite disposition of the adversary proceeding particularly if it involves complex facts or unusual delay.

(f) **Attorneys' Conference**. At a time to be fixed during the initial pretrial conference, or, if no time is fixed, at least 14 days prior to the final pretrial conference, the attorneys for the parties must hold an attorneys' conference to discuss settlement, a proposed pretrial order, stipulated facts, exhibit list, witness list, and other matters that will aid in an expeditious and productive final pretrial conference and the preparation of an accurate, complete, and definitive pretrial order.

(g) **Final Pretrial Conference**. The court may schedule a final pretrial conference. The trial attorney must attend the final pretrial conference. Preparation for the final pretrial conference should be in accordance with Fed. R. Bankr. P. 7016.

(h) **Pretrial Order**. At the time ordered by the court, the plaintiff must submit to the court for execution a proposed pretrial order approved by all attorneys. The form of the pretrial order should generally conform to the approved form attached as Local Form 7016-1-A. If the attorneys are unable to agree on a proposed pretrial order, each attorney must state his or her contentions as to the portion of the pretrial order upon which no agreement has been reached. The court will then determine a final form for the pretrial order and advise the parties. Thereafter, the order will control the course of the trial and may not be amended except by consent of the parties and the court or by order of the court to prevent manifest injustice. The pleadings will be deemed merged into the order. The court may dismiss an adversary proceeding if the pretrial order is not filed within the time fixed by the scheduling order. The pretrial order shall not excuse any party or that party's attorney from any of the requirements set forth in any scheduling order.

RULE 7026-1
DISCOVERY - GENERAL

(a) **Attorney Managed Discovery.** The court will not entertain any motions related to discovery under Fed. R. Bankr. P. 7026 through 7037 unless the moving attorney has in good faith conferred, or attempted to confer, with the opposing attorney and the parties are unable to reach an 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 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.** 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.

RULE 7041-1
DISMISSAL - VOLUNTARY AND FOR LACK OF PROSECUTION

(a) **Voluntary Dismissal**. Notices of dismissal and stipulations to dismiss submitted under Fed. R. Civ. P. 41, as made applicable under Fed. R. Bankr. P. 7041, should be accompanied by a written order of dismissal.

(b) **Dismissal for Lack of Prosecution**. At any time, the court may issue an order to show cause why an adversary proceeding should not be dismissed for lack of prosecution. If good cause is not shown within the time prescribed by the order to show cause, the court may enter an order of dismissal with or without prejudice, as the court deems proper.

RULE 7052-1
FINDINGS AND CONCLUSIONS

Except as otherwise directed by the court, in all non-jury proceedings, the attorney for each party must prepare and lodge with the court, at least 2 days before trial, proposed findings of fact and conclusions of law consistent with the theory of the submitting party and the facts expected to be proved. Proposed findings must be concise and direct, recite ultimate rather than mere intermediary evidentiary facts, and be suitable in form and substance for adoption by the court. The court, in its discretion, may require each party within the same time frame to submit proposed findings of fact and conclusions of law electronically by delivery of a CD or similar electronic storage medium.

RULE 7054-1
COSTS - TAXATION/PAYMENT

(a) **Bill of Costs.** Within 21 days after the entry of final judgment, a party entitled to recover costs must file a bill of costs, on a form available from the clerk, and a verification of bill of costs under 28 U.S.C. § 1924, and serve such documents on the attorneys of record of all adverse parties. The bill of costs must clearly and concisely itemize and describe the costs, checks, money orders, or other forms of payment, and must include copies of applicable invoices, receipts, and disbursement instruments. Failure to itemize and verify costs may result in their disallowance.

(b) **Objections to Bill of Costs.** A party objecting to a bill of costs must file an objection, supported by declarations and documentation, and serve the attorney of record for all adverse parties within 14 days after service of the bill of costs. Upon timely objection, a hearing may be scheduled to review the bill of costs and the objection.

(c) **Taxation of Costs.** If no objection is timely filed, the clerk must tax the costs and allow such items as are taxable under law. Costs taxed by the clerk will be included in the judgment or decree.

(d) **Judicial Review.** Taxation of costs by the clerk is subject to review by the court if, under Fed. R. Bankr. P. 7054(b), a motion for review is filed within 7 days after entry of the clerk's action.

RULE 7055-1
DEFAULT 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).

(c) **Judgment by Default Entered by Court.** In all other cases, the party entitled to judgment must apply to the court in accordance with Fed. R. Bankr. P. 7055. If the party against whom judgment is sought has appeared in the proceeding, the party seeking default judgment shall give notice of the application for default judgment to the attorney for the party as required by Fed. R. Bankr. P. 7055. If the party entitled to judgment is seeking relief under § 523 or § 727, 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.

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) an introduction summarizing why summary judgment should be granted;
- (2) a section entitled “Statement of Elements and Undisputed Material Facts”

that contains the following:

- (A) each legal element required to prevail on the motion;
- (B) citation to legal authority supporting each stated element (without argument);
- (C) 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 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) an introduction summarizing why summary judgment should be denied;

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

(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) 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) 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);

(D) 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); and

(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 than 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) **Citation of Unpublished Decisions.** Unpublished opinions may be cited in a memorandum as authority, but only if they are readily accessible through a recognized publisher of legal opinions such as Westlaw or Lexis. If a case is not reported in the West Bankruptcy Reporter, reference to the opinion should include the applicable reporting-service citation so the opinion can be quickly accessed by the court and other parties. Opinions that cannot otherwise be cited should be attached as an exhibit to the memorandum.

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

(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.

RULE 7067-1
REGISTRY FUND

(a) **Court Orders Relating to Deposits.** A party making a deposit under Fed. R. Bankr. P. 7067 in an adversary proceeding or a deposit in a case, may apply to the court for an order to invest the funds in accordance with this rule.

(b) **Registry Funds Invested in Interest-Bearing Accounts.** Upon motion and in accordance with Fed. R. Bankr. P. 7067 or other authority, the court may order the clerk to invest certain registry funds in an interest-bearing account or instrument. When guaranteed government securities are purchased, regardless of the amount invested, the funds require no posting of collateral. All other investments must be collateralized in accordance with the Department of Treasury's regulations. The order must also specify the following:

- (1) the amount to be invested;
- (2) the length of time the funds should be invested and, where applicable, whether they should be reinvested in the same account or instrument upon maturity;
- (3) the name(s) and address(es) and social security number(s) or tax identification number(s) of the designated beneficiary(ies); and
- (4) other information that is appropriate under the circumstances.

(c) **Service Upon the Clerk.** A copy of the order must be served personally upon the clerk or chief deputy clerk, with an additional copy provided to the court's financial department.

(d) **Deposit of Funds.** The clerk must take all reasonable steps to deposit funds into the specified accounts or instruments within, but not more than, 14 business days after service of a copy of the order.

(e) **Disbursements of Registry Funds.** A party seeking a disbursement of funds must prepare an order for the court's review and signature and must serve the signed order upon the clerk or chief deputy clerk. If applicable, the order should indicate whether, when released by the court, the instruments of investment should be redeemed subject to possible early withdrawal penalties or held until the maturity date. The clerk or chief deputy clerk must prepare the withdrawal documents under the order.

(f) **Management and Handling Fees.** Unless otherwise negotiated by the parties, funds invested under subsection (b) of this rule will be subject to routine management fees imposed by the financial institution and deducted at the time the accounts are closed or the instruments

redeemed. In addition, under the miscellaneous fee schedule approved by the Judicial Conference of the United States as set forth in 28 U.S.C. § 1930, the clerk must assess a “Registry Fund Fee.” The fee is to be determined and promulgated by the Director of the Administrative Office of the United States as authorized by the Judicial Conference of the United States.

(g) **Verification of Investment.** A party that obtains an order directing the investment of funds by the clerk should verify that the funds have been invested as ordered.

(h) **Liability of the Clerk.** Failure of a party to personally serve the clerk or chief deputy clerk with a copy of the order, or failure to verify investment of the funds within 7 days after the expiration of the time period set forth in subsection (d) of this rule, will release the clerk from any liability for the loss of earned interest on such funds.

(i) **Cash Bonds.** If a person other than a party posts a cash bond with the clerk, the party for whom the bond is posted must execute and file an agreement with such person setting forth the intended disposition of the cash deposit by the clerk upon release of the cash bond. No deposit of funds will be allowed unless an order allowing or requiring it has been entered.

RULE 7069-1
EXECUTION OF JUDGMENT

(a) **Domestication of Judgment.** A judgment creditor should domesticate a judgment in the appropriate state court and execute upon the judgment utilizing state law remedies whenever possible.

(b) **Motion to Appear.** A judgment creditor who holds a judgment that cannot be domesticated under state law may move to compel the judgment debtor, or other person in possession of or having information relating to property or other assets that may be subject to execution or restraint, to appear in court and answer questions concerning the property or assets. The movant, on proper declaration, may request that the judgment debtor or other person be ordered to refrain from alienation or disposition of the property or assets in any way detrimental to the movant's interest.

(c) **Hearing Before Bankruptcy Court.** A motion under subsection (b) of this rule may be presented to the court ex parte, and, if granted, the matter calendared for hearing, at which the judgment debtor or other person must appear to be examined. In any case in which the movant seeks a restraint of the judgment debtor, the court must make findings and a report for the district court with a proposed order for restraint which the district court may issue.

(d) **Failure to Appear.** Should the judgment debtor or other person fail to appear as directed, the court may issue such process as is necessary and appropriate, including arrest, to bring the person before the court. If the conduct of the non-responding person is contemptuous, a proper reference must be made by the court to the district court.

(e) **Fees and Expenses.** The movant must tender a witness fee and mileage or equivalent to any person, with the exception of the judgment debtor, who, under this rule is required to appear in court.

RULE 9004-1
CAPTION - PAPERS, GENERAL

(a) **General.** The caption of papers filed or served after the commencement of a case or proceeding must substantially conform to Official Forms 416A, 416B and 416D, as follows:

(1) Caption (Short Title) - Form 416B. *(May be used if 11 U.S.C. § 342(c) is not applicable).*

Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH

In re: Debtor(s).	Bankr. No. Chapter Hon. (Judge's Name
TITLE	

(3) Caption for Use in Adversary Proceeding - Form 416D.

Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

UNITED STATES BANKRUPTCY COURT
DISTRICT OF UTAH

In re: Debtor(s).	Bankruptcy No. Chapter Adversary Proceeding No. Hon. (Judge's Name)
Plaintiff(s), v. Defendant(s).	
TITLE	

(b) **Title.** The title of each paper must designate its purpose and include a reference to the party filing it.

RULE 9005.1-1
CLAIM OF UNCONSTITUTIONALITY

If a party files a pleading, written motion, or other paper drawing into question the constitutionality of a federal or state statute pursuant to Fed. R. Bankr. P. 9005.1, the court must, under 28 U.S.C. § 2403, certify to the appropriate attorney general that a statute has been questioned.

(1) If a federal statute is questioned, upon receipt of the notice, the clerk, on behalf of the court, must file a certificate in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the United States that the constitutionality of an Act of Congress, title ___, § ___, United States Code (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the United States, nor any of its agencies, officers, or employees, is a party. Under 28 U.S.C. § 2403(a), the United States is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.

The clerk must send a copy of the certificate to the United States Attorney for the District of Utah and provide a copy to the judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no assignment has been made.

(2) If a state statute is questioned, upon receipt of the notice, the clerk on behalf of the court, must file a certificate in substantially the following form:

The United States Bankruptcy Court for the District of Utah hereby certifies to the Attorney General of the State of _____, that the constitutionality of an Act of the legislature of the State of _____, title ___, Chapter ___, § ___, (or other description), is drawn in question in the case of _____ vs. _____, Case No. _____, Adversary Proceeding No. _____, to which neither the State of _____, nor any of its agencies, officers, or employees, is a party. Under 28 U.S.C. § 2403(b), the State of _____ is permitted to intervene in the case for the presentation of evidence, if admissible, and for argument on the question of constitutionality.

The clerk must send a copy of the certificate to the Attorney General of the state and provide a copy to the judge to whom the case or proceeding is assigned, or to the Chief Judge of the court, if no assignment has been made.

**RULE 9006-1
TIME PERIODS**

(a) **Time for Filing Motions and Objections to Claims.** A motion and notice of hearing in a case or proceeding filed pursuant to the applicable provisions of the Federal Rules of Bankruptcy Procedure and [Local Rule 9013-1](#), which is not to be heard *ex parte*, must be filed and served by a date which permits timely completion of the time periods for filing responses and replies set forth in subsections (b) and (c) of this Local Rule, unless a different period is fixed by order of the court, by the Federal Rules of Bankruptcy Procedure, or by these Local Rules. A motion for an order fixing a different period may, for cause shown, be made to the court on an *ex parte* basis.

(b) **Time for Filing Responses.** Responses to motions and claim objections must be filed within the following time periods.

(1) **Responses Governed by Rule 2002.** In matters governed by Fed. R. Bankr. P. 2002, responses must be filed and served within the time periods set forth therein and in no case less than 4 days before the date set for the hearing. The movant must schedule a hearing sufficiently in advance to assure that all responses are filed and served not less than 4 days before the date set for hearing.

(2) **Objections to Motions for Relief from Stay.** Unless otherwise ordered by the court, objections to motions for relief from stay must be filed and served within 14 days after notice of the motion for relief from stay is served. A party filing an objection to a motion for relief from the stay pursuant to [Local Rule 4001-1\(b\)](#) must file and serve the objection by the identified deadline which in no case should be less than 4 days before the date set for the hearing. The movant must schedule a hearing sufficiently in advance to assure that all responses are filed and served not less than 4 days before the date set for hearing.

(3) **Responses in Matters.** In matters not governed by Fed. R. Bankr. P. 2002, 3007, 4001, or by other Federal Rules of Bankruptcy Procedure that require a different response period, and unless the court orders otherwise, responses must be filed and served within 14 days after notice is served. A party filing an objection or a response must file and serve the objection or response by the identified deadline which in no case should be less than 4 days before the date set for the hearing. The movant must schedule a hearing

sufficiently in advance to assure that all responses are filed and served not less than 4 days before the date set for hearing.

(c) **Time for Filing Replies.** Replies to responses and objections may be filed in the movant's discretion and must be filed no later than 7 days after the response or objection is served and in no case less than 4 days before the date set for hearing. The movant must schedule a hearing sufficiently in advance to assure that replies are filed and served not less than 4 days before the date set for hearing.

(d) **Additional Time After Certain Forms of Service.** Whenever a party may or must act within a specified time after being served, and service is made under Fed. R. Civ. P. 5(b)(2)(C) (first-class mail), (D) (leaving with the court clerk if the person has no known address), or (F) (delivery by any other means consented to), 3 days are added after the period would otherwise expire under Fed. R. Bank. P. 9006(a).

RULE 9010-1
ATTORNEYS - NOTICE OF APPEARANCE

(a) **Attorney of Record.** An attorney, or a party not represented by an attorney for the debtor, for a creditor or for another party, who signs and files a petition, pleading or paper, is deemed to have made an appearance in the matter. If an attorney's appearance has not been established previously by the filing of papers in the case or proceeding, the attorney must file a notice of appearance promptly upon undertaking the representation of any party or witness. An attorney of record is responsible in all matters respecting the case or proceeding before and after a judgment, until the closing of the case, until the time for appeal from a judgment or order has expired or a judgment or order has become final after appeal, or until there has been an order permitting withdrawal by or substitution of the attorney in the case or proceeding.

(b) **Notification of Change in Address or Telephone Number.** In all cases and proceedings, attorneys and parties appearing without an attorney must notify the clerk's office of any change in address or telephone number.

(c) **Appearance by Attorney.** A party who has appeared by an attorney, may not appear or act thereafter in the party's own behalf in the action or take any steps therein, unless an order of withdrawal or substitution is entered by the court after notice to the party's attorney and to parties in interest. However, notwithstanding that a party has appeared or is represented by an attorney, at its discretion, the court may hear a party in open court. An attorney who has appeared of record for any party must:

- (1) represent the party in the action;
- (2) be recognized by the court and by all parties to the action as having control of the client's case; and
- (3) sign all papers that are to be signed on behalf of the client.

RULE 9011-1
PAPERS SIGNED BY AN ATTORNEY

The Court may, *sua sponte* or upon the motion of a party in interest, strike any paper required to be signed by an attorney that is not signed by an attorney admitted to practice before this court under [Local Rule 2090-1](#).

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. On its own initiative, or upon the motion of a party, the court may dismiss a case or proceeding convert a case, appoint a trustee or examiner, grant judgment by default, strike any pleading or other appropriate sanctions for failure to comply with this rule.

(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 standards. 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.

RULE 9013-1
MOTION PRACTICE – MATTERS SET FOR A 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 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) 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 in Fed. R. Bankr. 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 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) 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) 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 served by the movant on the case trustee, debtor, debtor-in-possession, those entities specified in these rules or the Federal Rules of Bankruptcy Procedure, and other parties 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.** If there has been no opposition to the motion filed or served on the movant, the court may, but is not required to, strike the hearing and grant the relief requested in a motion without a hearing.

(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) **Citation of Unpublished Decisions.** Unpublished opinions may be cited in a memorandum as authority, but only if they are readily accessible through a recognized publisher of legal opinions such as Westlaw or Lexis. If a case is not reported in the West Bankruptcy Reporter, reference to the opinion should include the applicable reporting-service citation so the opinion can be quickly accessed by the court and other parties. Opinions that cannot otherwise be cited should be attached as an exhibit to the memorandum.

(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, preceded 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 Form 9013-3.

(m) **Motion to Shorten Time for Expedited Hearing**. A party may file a motion to shorten time for expedited hearing, which may be granted ex parte for cause. A party seeking a Motion to Shorten Time for Expedited Hearing must telephone the court scheduling clerk to obtain a date and time to schedule a hearing on the underlying motion. The notice period may not be less than ten days from the date of the request without permission of the court for a shorter period. Once a date has been set by the scheduling clerk, the party must file the following documents on the case docket in the following order:

- (1) The underlying motion for which the movant is seeking an expedited hearing;
- (2) A Motion to Shorten Time for Expedited Hearing that states cause as to why the underlying motion should be heard on an expedited basis, and states the proposed time frame for presentment of the motion, the hearing date and time, the objection deadline, and the date of service; and,
- (3) A proposed order on the Motion to Shorten Time for Expedited Hearing that includes the hearing date and time, the objection deadline, and the date of service; and,

(4) A Notice of Hearing (Local Form 9013-1) with an objection deadline that expires not less than one business day before the scheduled hearing.

If the Motion to Shorten Time for Expedited Hearing is denied, the party must serve notice of the underlying motion in accordance with [Local Rule 9013-1\(d\)](#).

RULE 9013-2

MOTION PRACTICE – MATTERS SET WITH AN OPPORTUNITY FOR A 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 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.** 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 \$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 [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) 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 in Fed. R. Bankr. 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 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 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;

(6) be served by the movant on the case trustee, debtor, debtor-in-possession, those entities specified in these rules or Federal Rules of Bankruptcy Procedure, 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 on the date and the time 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 or Deficient Motions. The court may deny, sua sponte, any defective or deficient motion, or a motion, the notice of which is subject to the provisions of this rule and which notice does not comply with this rule. Any such denial shall be without prejudice.

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

(5) Non-Prosecuted Motions.

(A) If more than 28 days have passed since the expiration of the objection deadline of a motion, as specified in [Local Rule 9013-2\(d\)\(3\)](#), and if no action has been taken on the motion, the Court may require the motion to be re-noticed before the movant may take any further action on the motion.

(B) At the time the bankruptcy case is closed pursuant to 11 U.S.C. §§ 350, 707, 930, 1112, 1208 or 1307, 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.

RULE 9014-1
DISCOVERY IN CONTESTED MATTERS

At the request of any party in interest, or on the court's own motion, the court may order that Fed. R. Bankr. P. 7026 applies to a contested matter.

RULE 9015-1
JURY TRIAL

(a) **Demand.** Where a jury trial is demanded in or by endorsement upon a pleading as permitted by the Federal Rules of Civil Procedure, the words “JURY DEMANDED” should be typed in capital letters on the first page immediately below the title of the pleading.

(b) **Applicable Rules.** Fed. R. Civ. P. 38-39, 47-51 and 81(c), insofar as they pertain to jury trials, and DUCivR 83-7.5 apply in cases and proceedings, except that a jury demand made under Fed. R. Civ. P. 38(b) must be filed in accordance with Fed. R. Bankr. P. 5005.

(c) **Consent to Have Trial Conducted by Bankruptcy Judge.** If the right to a jury trial applies, a timely demand has been filed under Fed. R. Civ. P. 38(b), and the bankruptcy judge has been specially designated to conduct the jury trial, the parties may consent to have a jury trial conducted by a bankruptcy judge under 28 U.S.C. § 157(e) by jointly or separately filing a statement of consent no later than: (1) the time for filing the Report of Parties’ Planning Meeting under Fed. R. Bankr. P. 7026 and [Local Rule 7016-1\(b\)](#); or (2) if a motion for withdrawal of reference is filed after the demand, within 7 days after service of the motion for withdrawal of reference. Failure to file a consent constitutes an objection by opposing party to a jury trial in the bankruptcy court.

RULE 9019-1
SETTLEMENTS OF ADVERSARY PROCEEDINGS

(a) **General.** The parties should file a written settlement agreement not less than 3 business days before a related hearing. Unless good cause is shown, if the parties settle a matter less than 3 business days before a related hearing, the court may assess costs equally to the parties including, court costs, reporter costs, and the judge's travel costs and per diem, if any. The clerk must bill the parties for the assessed costs and monitor the collection of the costs for the court.

(b) **Settlement of Adversary Proceeding with Trial Date.** In an adversary proceeding for which a trial date has been scheduled, the parties must immediately notify the court of any settlement agreement that resolves all or part of the proceeding. Parties who fail to give adequate notice of the cancellation of a trial date may be assessed costs. Whenever a civil action scheduled for jury trial is settled or otherwise disposed of by agreement in advance of the trial date, jury costs paid or incurred may be assessed against the parties and their attorneys as directed by the court. Jury costs may include attendance fees, per diem, mileage, and parking. Jury costs will not be assessed if notice of settlement or disposition of the case is given to the Jury Administrator of the District Court Clerk's Office at least one full business day prior to the scheduled trial date.

(c) **Settlement of § 727 Adversary Proceeding.** If a plaintiff seeks to settle an adversary proceeding that includes a claim for relief under one or more of the provisions of § 727(a), the motion to approve the settlement must be served on all parties in interest. Even in the absence of objections, the Court may require a hearing on the motion to determine that it is in the best interest of all creditors.

RULE 9019-2
ALTERNATIVE DISPUTE RESOLUTION

Upon agreement and motion of all parties, the court may refer an adversary proceeding to the Alternative Dispute Resolution Program (“ADR Program”) for mediation under DUCivR 16-2. The motion may be made at the initial pretrial conference or at any other time. An adversary proceeding referred to the ADR Program will remain under the jurisdiction of the court for all purposes, including the entry of any order granting a motion to approve a stipulation resolving the adversary proceeding, dismissing the adversary proceeding or withdrawing the referral to the ADR Program.

RULE 9021-1
PREPARATION AND SUBMISSION OF JUDGMENT OR ORDER

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

(b) **Form of Orders.** Unless directed by the court, orders should not contain specific findings and conclusions but should simply state that the court’s findings or conclusions were made on the record. Orders should contain a detailed statement of the specific relief being granted by the order. Bald statements such as “the motion is granted,” without subsequent detail, should not be used.

(c) **Orders Approving Settlements.** An order approving a settlement, agreement, contract, or compromise should attach a copy of the same as an exhibit to the order. In the alternative, the order should reference by docket number the specific settlement, agreement, contract, or compromise being approved.

(d) **Margins.** Proposed orders should comply with [Local Rule 5005-3](#) (Filing Papers – Size and Form of Papers), but must instead have a top margin of 2.5 inches to accommodate the court’s electronic signature stamp. Failure to comply with this requirement will likely result in the rejection of the proposed order.

(e) **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 and filed 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 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.

(f) **Entry of Court Orders.** An ECF Filer 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.

(g) **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.

(h) **Designation of Parties to Receive Notice of Order**. A party filing a proposed judgment or order shall also 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 Form 9021-1.

(i) Amended Orders. An order presented to the Court that amends a previously-entered order shall conspicuously identify the added text by underlining, bolding, or using a red font. If text is deleted from the original order, it shall likewise be conspicuously identified by striking through such text. An explanation for the addition and/or removal of text from the original order shall be included in the introductory language of the order or set forth in the motion for the entry of the amended order.

RULE 9022-1
NOTICE OF JUDGMENT OR ORDER

The clerk must mail or deliver by electronic means to the contesting parties, a copy of a judgment or order showing the date the judgment or order was entered in accordance with Fed. R. Bankr. P. 9022. Immediately upon the entry of an order or judgment, the clerk will transmit to ECF Filers in the case or proceeding, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The clerk must give notice in paper form to persons who are not ECF Filers.

RULE 9070-1
EXHIBITS

(a) Prior to Trial.

(1) Marking Exhibits. Prior to trial, each party should mark all exhibits to be introduced during trial using exhibit labels (stickers) obtained from the clerk. Plaintiffs or movants use consecutive numbers; defendants or responding parties use consecutive letters.

(2) Preparation for Trial. After completion of discovery and prior to the final pretrial conference, the attorneys for each party must: (A) prepare and serve on opposing attorneys a list that identifies and briefly describes all exhibits to be offered at trial; and (B) afford opposing attorneys opportunity to examine the exhibits. The parties must list the exhibits in the final pretrial order.

(3) Electronic Exhibits. The court may request that parties provide exhibits in an electronic format. At the final pretrial conference, parties may request court approval to use electronic exhibits at trial. Electronic exhibits must comply with the following standards: (A) electronic exhibits must be in the .PDF format; (B) electronic exhibits must be exact copies of any paper exhibit provided for trial; (C) all electronic exhibits, other than hand-written papers, must be text searchable; (D) all of a party's electronic exhibits must be bundled in single .PDF file with bookmarks identifying the exhibit letter or number and providing a short description of the exhibit (e.g., contract, note, trust deed, etc.). Further, the bookmark should link to the first page of the actual exhibit.

(b) During Trial.

(1) Custody of the Clerk. Unless the court orders otherwise, all exhibits that are admitted into evidence during trial, that are suitable for filing and transmission to the appellate court as a part of the record on appeal, must be placed in the custody of the clerk.

(2) Custody of the Parties. Unless the court orders otherwise, any other exhibit admitted into evidence during trial must be retained in the custody of the party offering it. With approval of the court, photocopies may be substituted for the exhibits once they have been introduced into evidence.

(c) **After Trial.**

(1) **Exhibits in the Custody of the Clerk.** If the clerk takes custody of exhibits under subsection (b)(1) of this rule, the exhibits may not be taken from the custody of the clerk until final disposition of the matter, except upon order of the court and execution of a receipt that identifies the material taken. The receipt must be filed in the case or proceeding.

(2) **Retrieval from Evidence.** With the permission of the clerk, parties should retrieve all exhibits from the custody of the clerk within 30 days after the expiration of the appeal period or after the mandate of the final reviewing court is filed. A party failing to comply with this rule will be notified by the clerk to retrieve its exhibits and sign a receipt for them. If the exhibits are not timely retrieved, the clerk may destroy or otherwise dispose of them as the clerk may see fit.

(3) **Exhibits in the Custody of the Parties.** Unless the court orders otherwise, the party offering any exhibit of the kind described in subsection (b)(2) of this rule must retain custody of it and be responsible to the court for preserving it in its condition as of the time admitted, until the time for appeal has expired or after the mandate of the final reviewing court is filed.

(4) **Access to Exhibits by Parties.** In case of an appeal, any party, upon written request of any other party or by order of the court, must make available any or all original exhibits in its possession, or true copies thereof, to enable another party to prepare the record on appeal.

(5) **Exhibits in Appeals.** When a notice of appeal is filed, each party must prepare and submit to the clerk a list that designates which exhibits are necessary for the determination of the appeal and in whose custody they remain. Parties who have custody of exhibits so listed must safekeep and transport the exhibits to the appellate court. All other exhibits that are not necessary for the determination of the appeal and that are not in the custody of the clerk must remain in the custody of the respective party, until the mandate of the final reviewing court is filed.

(d) **Contested Matters.** Prior to hearing, each party should mark all exhibits to be introduced during the hearing using exhibit labels (stickers) obtained from the clerk. Movants use

consecutive numbers; respondents use consecutive letters. If a motion refers to exhibits, legible copies of the exhibits must be attached to the motion.

RULE 9071-1
PROCEDURAL STIPULATIONS

(a) **Procedural Requirement.** An agreement affecting the course or conduct of a trial or hearing must be in writing, signed by the parties, or made a part of the record by oral stipulation.

(b) **Court Approval - General.** A stipulation between the parties relating to proceedings before the court or modifying a prior order of the court will not be effective until approved by the court.

(c) **Stipulations to Continue Proceedings.** A stipulation between the parties to continue a hearing or trial before the court will not be effective unless approved by the court. A motion for continuance of a trial must be filed with the court not less than 3 business days before the trial. Unless good cause is shown, where a trial continuance is granted less than 3 business days before the trial date, the court may assess costs equally to the parties including, but not limited to, court costs, reporter costs, and the judge's travel costs and per diem, if any. The clerk must bill the parties for the assessed costs and monitor the collection of the costs for the court.

(d) **Continuance of Trial or Hearing Date.** The court may continue a trial or hearing for any reason and notice of such continuance shall be given to the parties by the clerk of court, or as otherwise directed by the court. The court may continue a trial or hearing on the date it is to be heard without further notice to parties other than those who appeared at the scheduled trial or hearing. Notice announced on the record at the time of the previously set trial or hearing will suffice.

**RULE 9073-1
HEARINGS**

(a) **Scope of Rule.** This rule applies to matters requiring a hearing in either a case or an adversary proceeding.

(b) **Setting Hearings.** The movant or a party objecting to a claim must obtain a hearing date and time on the court's calendar from the scheduling clerk for the judge assigned to the case. Unless modified by court order, hearings must be scheduled with sufficient time to serve notice and to give parties in interest time to file responsive memoranda as allowed in these Local Rules. The movant or objecting party must file the motion or objection within 3 business days after the hearing has been set. The court may strike the hearing if the motion or objection is not filed timely without further notice, and may sanction any party that sets a matter for hearing but fails to timely file the applicable motion or objection. After the hearing has been scheduled, the movant or objecting party may not add or substitute other motions or objections without the express permission of the scheduling clerk. The court may strike any motion or objection that was added or substituted without permission.

(c) **Order of Hearings.** The court will direct the order in which hearings will be held to promote efficiency and justice.

(d) **Movant Responsible to Give Notice.** The movant or the objecting party is responsible for properly serving the motion or objection and notice to all parties entitled to notice.

(e) **Rescheduling Hearings.** If an objection or response to a motion or objection has been filed, the hearing may not be rescheduled without the consent of all parties and the Court. The request to reschedule the hearing must also be made within the time frame outlined in [Local Rule 9013-1\(g\)](#).

(f) **Cancellation of Hearings.** If the movant or other party wishes to cancel a noticed hearing for any reason, the movant or other party must immediately give notice of the cancellation to the scheduling clerk and parties receiving notice. The court may assess costs against the movant or parties who fail to give adequate notice of the cancellation of a hearing.

(g) **Withdrawal of Motion.** A movant or party who does not intend to pursue a motion or objection must immediately file a withdrawal of the motion and notify the scheduling clerk and parties in interest who received the motion. Even if the motion is withdrawn, the movant or party must attend the hearing unless excused by the court. A movant or party who fails to provide notice

under this rule may be assessed costs.

(h) **Withdrawal of Response to Motion.** A responding party who does not intend to argue its position at the hearing, must immediately file a withdrawal of the response, notify the movant of the withdrawal, and notify the scheduling clerk. The court may assess costs against a party for failure to comply with this rule.

(i) **Attendance at Hearing.** Unless a hearing is stricken pursuant to [Local Rule 9013-1\(f\)](#), or rescheduled pursuant to subsection (e) of this Local Rule, the movant and any responding or objecting party must appear at the hearing.

(j) **Failure to Appear at a Hearing.** Unless excused by the court, failure to appear at a hearing may be deemed either a waiver of the motion by the movant or a consent to the motion by the responding party. A movant or responding party who fails to attend a hearing when required may be assessed costs incurred by the opposing party.

ADOBE PDF FILLABLE

LOCAL FORMS
UNITED STATES BANKRUPTCY COURT
FOR THE
DISTRICT OF UTAH



Frank E. Moss United States Courthouse
350 South Main Street
Salt Lake City, Utah 84101



UNITED STATES BANKRUPTCY COURT District of Utah

Honorable R. Kimball Mosier, Chief Judge • David A. Sime, Clerk of Court

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Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon.

VERIFICATION AND REQUEST FOR CHAPTER 13 DISCHARGE

The Debtor(s), in the above-captioned case, being duly sworn, state as follows:

1. The Chapter 13 Trustee has issued a Notice of Completion of Plan Payments and the Debtors hereby request the court to enter a discharge in this case.

2. The Debtors have filed with the Bankruptcy Court Official Form 23 (Debtor's Certification of Completion of Postpetition Instructional Course Concerning Personal Financial Management).

3. A. I/We have not been required by a judicial or administrative order, or by statute to pay any domestic support obligation as defined in 11 U.S.C. §101(14A) either before this bankruptcy was filed or at any time after the filing of this bankruptcy.

OR

3. B. I/We certify that prior to the date of this affidavit I/We have paid all amounts due under any domestic support obligation (as defined in 11 U.S.C. §101(14A)) required by a judicial or administrative order, or by statute including amounts due before this bankruptcy was filed, to the extent provided for by the plan. The name and address of each holder of a domestic support obligation are as follows:

Name:

Address:

Address:

[Note: If “3.B” is applicable, all information required in questions B.1 through 3 below must also be provided]

B.1. My/Our most recent address is as follows:

Address:

Address:

B.2. The name and address of my/our most recent employer(s) is as follows:

Name:

Address:

Address:

B.3. The following creditors hold a claim that is not discharged under 11 U.S.C. § 523(a)(2) or (a)(4), or a claim that was reaffirmed under 11 U.S.C. § 524(c):

Name:

Name:

4. I/We have not received a discharge in a Chapter 7, 11 or 12 bankruptcy case filed within 4 years prior to filing this Chapter 13 bankruptcy.

5. I/We have not received a discharge in another Chapter 13 bankruptcy case filed within 2 years prior to filing this Chapter 13 bankruptcy case.

6. A. I/We did not have either at the time of filing this bankruptcy or at the present time, equity in excess of _____ * in the type of property described in 11 U.S.C. § 522(p)(1) [generally the debtor's homestead]

OR

B. There is not currently pending any proceeding in which I [in an individual case] or either of us [in a joint case] may be found guilty of a felony of the kind described in 11 U.S.C. § 522(q)(1)(A) or liable for a debt of the kind described in 11 U.S.C. § 522 (q)(1)(B).

Debtor's Signature

Joint Debtor's Signature

NOTICE OF DEADLINE TO OBJECT

Any objection to this verification and the entry of a discharge for the above-named debtor(s) must be filed within 21 days after the service date set forth below. If no objection is filed, the court may enter a discharge pursuant to 11 U.S.C. § 1328(a) without further notice or hearing.

CERTIFICATE OF SERVICE

(Attach Local Form 9013-3)

* Amounts are subject to adjustment next on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re: Debtor(s).	Bankruptcy No. Chapter Hon.
NOTICE OF PRECONFIRMATION AMENDED CHAPTER 13 PLAN AND OPPORTUNITY TO OBJECT OBJECTION DEADLINE: HEARING DATE:	

PLEASE TAKE NOTICE that the Debtor(s) have filed with the United States Bankruptcy Court for the District of Utah an Amended Chapter 13 Plan under 11 U.S.C. § 1323.

YOUR RIGHTS MAY BE AFFECTED. You should review these papers carefully and discuss them with your attorney, if you have one. If you disagree with the terms of the Amended Plan stated herein, you or your attorney must file with the Bankruptcy Court a written objection before the deadline stated above. In the absence of a timely written objection, the Court may grant the requested relief and confirm the Amended Plan without further notice or hearing.

The most recently filed plan is hereby modified as follows:

Plan Part No.	Previously filed plan provision	Plan as modified

The above is a summary of the amended changes. Parties are advised to review the filed plan to determine if any further changes apply to them.

If you do not want the Court to grant confirmation of the Amended Plan, then you **must** timely take both of the following actions:

- (1) On or before [], you or your lawyer must file with the bankruptcy court at the following address a written objection explaining your opposition to the Amended Plan:

United States Bankruptcy Court
350 South Main Street, Room 301
Salt Lake City UT 84101

If you mail your objection, it must be mailed early enough so that the court will **receive** it on or before [].

- (2) And you must attend the hearing on confirmation, which is set for [] at []. Failure to attend the hearing may be deemed a waiver of your objection.

If you or your attorney do not take these steps, the Bankruptcy Court may decide that you do not oppose confirmation of the Amended Plan and may enter an order granting confirmation without a hearing. In the absence of a timely filed objection, the Bankruptcy Court may strike the hearing and enter an order confirming the Amended Plan.

Dated:

/s/

Signature

CERTIFICATE OF SERVICE

(Attach Local Form 9013-3)

Submitting Attorney (Utah State Bar No.)
 Address
 Telephone No.
 Facsimile No. (Optional)
 E-Mail Address (Recommended)
 Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon.

**NOTICE OF PRECONFIRMATION MODIFICATION
 TO CHAPTER 13 PLAN**

PLEASE TAKE NOTICE that the Debtor(s) has filed with the United States Bankruptcy Court for the District of Utah a request to modify the previously filed Chapter 13 Plan under 11 U.S.C. § 1323. The Debtor(s) moves the Court for confirmation of the Plan as modified without further notice and hearing. In support thereof, the Debtor(s) represents as follows:

The most recently filed plan is hereby modified as follows:

Plan Part No.	Previously Filed Plan Provision	Plan as Modified

--	--	--

The modification does **not** negatively impact secured, priority or nonpriority unsecured creditors because:

[

].

Under § 1323(c), any holder of a secured claim that has accepted or rejected, as the case may be, the prior plan is deemed to have accepted or rejected the plan as modified, unless the modification provides for a change in the rights of such holder from what such rights were under the plan before modification, and changes such holder's previous acceptance or rejection.

THEREFORE, because the modification does not require notice to creditors, the Debtor(s) requests the Bankruptcy Court to confirm the plan as modified without further notice or hearing.

Dated:

/s/

Signature

CERTIFICATE OF SERVICE
(Attach Local Form 9013-3)

Submitting Attorney (Utah State Bar No.)
 Address
 Telephone No.
 Facsimile No. (Optional)
 E-Mail Address (Recommended)
 Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon.

**NOTICE OF ADEQUATE PROTECTION PAYMENTS
 UNDER 11 U.S.C. § 1326(a) AND OPPORTUNITY TO OBJECT**

The Debtor states as follows:

1. On [], the Debtor(s) filed a Chapter 13 petition for relief.
2. The Debtor proposes to make Adequate Protection Payments, pursuant to § 1326(a)(1)(C) accruing with the initial plan payment which is due no later than the originally scheduled meeting of creditors under § 341 and continuing to accrue on the first day of each month thereafter, to the holders of the allowed secured claims in the amounts specified below:

Secured Creditor	Description of Collateral	Monthly Adequate Protection Payment Amount	Number of Months to Pay Adequate Protection

3. The monthly plan payments proposed by the Debtor(s) shall include the amount necessary to pay all Adequate Protection Payments and the amount necessary to pay the Trustee's statutory fee.
4. Upon completion of the Adequate Protection Payment period designated herein for each listed secured creditor, the Equal Monthly Plan Payment identified in each Part of the Plan shall be the monthly payment and shall accrue on the first day of each month.
5. This Notice shall govern Adequate Protection Payments to each listed secured creditor unless subsequent Notice is filed by Debtor or otherwise ordered by the Court.
6. Objections, if any, to the proposed Adequate Protection Payments shall be filed as objections to confirmation of the Plan. Objections must be filed and served no later than 7 days before the date set for the hearing on confirmation of the Plan.

Dated:

/s/
Debtor(s)' Counsel

[Unless the debtor includes the Notice of Adequate Protection Payments as an attachment to the Plan, a certificate of service is required establishing compliance with all applicable noticing requirements.]

CERTIFICATE OF SERVICE
(Attach Local Form 9013-3)

Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon.

**POSTCONFIRMATION MOTION TO REDUCE EQUAL
MONTHLY PLAN PAYMENT(S) TO SECURED CREDITOR(S)**

1. The Debtor(s) request a reduction to the monthly payment to secured creditor(s) during the period of payment of attorney's fees awarded under 11 U.S.C. § 330.
2. The Debtor proposes to make a reduced Equal Monthly Plan Payment (aka "Adequate Protection Payment") to the holder(s) of allowed secured claims in the amounts and for the period specified below, accruing with the first day of the month after entry of the order awarding attorney's fees under 11 U.S.C. § 330 and Court approval of the reduced payment:

Secured Creditor	Collateral Description	Monthly Adequate Protection Payment Amount	Number of Months to Pay Adequate Protection

3. Upon completion of the adequate protection period designated above for each affected secured creditor, the payment to the creditor shall revert to the Equal Monthly Plan Payment specified in the applicable Part of the Plan.

Dated:

/s/
Debtor(s)' Counsel

CERTIFICATE OF SERVICE
(Attach Local Form 9013-3)

Lien Avoidance Worksheet

Information regarding judicial lien or security interest	Lien Avoidance Calculation	Treatment of remaining secured claim														
Name of creditor: _____ _____ _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; padding: 2px;">a. Amount of lien subject to avoidance</td> <td style="width: 30%; padding: 2px;">\$ _____</td> </tr> <tr> <td style="padding: 2px;">b. Value of property securing lien subject to avoidance</td> <td style="padding: 2px;">\$ _____</td> </tr> <tr> <td style="padding: 2px;">c. Amount of liens senior to the lien subject to avoidance (identify each lien and amount)</td> <td style="padding: 2px;">\$ _____</td> </tr> <tr> <td style="padding: 2px;">d. Value of claimed exemption(s) in property</td> <td style="padding: 2px;">\$ _____</td> </tr> <tr> <td style="padding: 2px;">e. Total of lines c and d</td> <td style="padding: 2px;">\$ _____</td> </tr> <tr> <td style="padding: 2px;">f. Value of debtor(s)' equity interest in property (subtract line e from line b)</td> <td style="padding: 2px;">\$ _____</td> </tr> <tr> <td style="padding: 2px;">g. Amount of lien to be avoided (amount of line a that exceeds line f)</td> <td style="padding: 2px;">\$ _____</td> </tr> </table>	a. Amount of lien subject to avoidance	\$ _____	b. Value of property securing lien subject to avoidance	\$ _____	c. Amount of liens senior to the lien subject to avoidance (identify each lien and amount)	\$ _____	d. Value of claimed exemption(s) in property	\$ _____	e. Total of lines c and d	\$ _____	f. Value of debtor(s)' equity interest in property (subtract line e from line b)	\$ _____	g. Amount of lien to be avoided (amount of line a that exceeds line f)	\$ _____	Amount of secured claim after avoidance (line f not to exceed line a) \$ _____ Interest rate (if applicable) _____%
a. Amount of lien subject to avoidance	\$ _____															
b. Value of property securing lien subject to avoidance	\$ _____															
c. Amount of liens senior to the lien subject to avoidance (identify each lien and amount)	\$ _____															
d. Value of claimed exemption(s) in property	\$ _____															
e. Total of lines c and d	\$ _____															
f. Value of debtor(s)' equity interest in property (subtract line e from line b)	\$ _____															
g. Amount of lien to be avoided (amount of line a that exceeds line f)	\$ _____															
Description of Collateral: _____ _____ _____	Monthly payment on secured claim \$ _____	Estimated total payments on secured claim \$ _____														
Lien identification Information (e.g., judgment date; date entered in registry; date of lien recording, including entry number, book and/or page number, etc.) _____ _____ _____	Extent of exemption impairment (Check applicable box): <input type="checkbox"/> Line f is zero or less: The entire lien is avoided. (Do not complete the next column.) <input type="checkbox"/> Line f is more than zero: A portion of the lien is avoided. (Complete next column.)	[Insert additional claims as needed]														

APPLICATION FOR ADMISSION PRO HAC VICE, CONTINUED

Name of Applicant: _____

Business Address: _____

Main Office Telephone Number: (____) _____

Fax Number: (____) _____

E-mail Address: _____

BAR ADMISSION HISTORY

COURTS TO WHICH ADMITTED	LOCATION	DATE OF ADMISSION
--------------------------	----------	-------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(If additional space is needed, attach separate sheet.)

PRIOR PRO HAC VICE ADMISSIONS IN THIS DISTRICT

CASE TITLE	CASE NUMBER	DATE OF ADMISSION
------------	-------------	-------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

(If additional space is needed, attach separate sheet.)

Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re: Debtor(s).	Bankruptcy No. Chapter Hon.
--	---

MOTION TO WITHDRAW AS COUNSEL

1. Pursuant to Local Rule 2091-2, (“Counsel”),
hereby moves to withdraw as counsel for:

Client Name: (the “Client”)
Address:
City, State, Zip:
Telephone Number(s):
E-Mail Address:

2. The reasons for withdrawal are as follows:

3. In the event this motion is granted, Client or new counsel for Client (including new counsel in the withdrawing attorney’s law firm), must file a notice of appearance within 21 days after entry of the order, unless otherwise ordered by the court. Pursuant to Local Rule 9011-2(a),

no corporation, association, partnership, limited liability company or other artificial entity may appear pro se, but must be represented by an attorney who is admitted to practice in this court.

4. This motion is made: [*State the alternative that applies*]

_____ with the client's consent, which is attached to this motion; or

_____ without client's consent and is accompanied by:

_____ certification that Client has been served with (i) a copy of this motion, (ii) the attached written description of the status of the case, including the dates and times of any scheduled court proceedings, pending compliance with any existing court orders, and the possibility of sanctions;

or

_____ certification that the Client cannot be located or, for any other reason, cannot be notified of the pendency of the motion and status of the case.

5. The undersigned certifies: [*State the alternative that applies*]

_____ there are no pending motions or trials; or

_____ a hearing on [_____].

_____ a certification signed by Counsel is attached indicating that Client is prepared for trial as scheduled and is eligible pursuant to Local Rule 9011-2(b) to appear *pro se* at trial; or

_____ the following specific facts justify withdrawal of counsel without the present appearance of substitute counsel or the appearance by the individual party *pro se*:

[

]

CERTIFICATION

Counsel hereby certifies that a copy of this Motion for Withdrawal of Counsel has been sent to the Client at the address indicated above.

Dated this Day of , 20 .

Moving Attorney

CERTIFICATE OF SERVICE
(Attach Local Form 9013-3)

Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon.

ORDER APPROVING WITHDRAWAL OF COUNSEL

Pursuant to the motion to withdraw as counsel under Local Rule 2091-2(b)(1)(A), and for good cause appearing, the Court hereby **ORDERS** as follows:

1. [] may withdraw as counsel of record for [] (the “Client”) in the above-captioned case.

2. With regard to Client’s continued representation, the Court Orders as follows:

(a) Client or new counsel for Client must file a Notice of Appearance within 21 days after the entry of this order. Pursuant to Local Rule 9011-2(a), no corporation, association, partnership, limited liability company or other artificial entity may appear *pro se*, but must be represented by an attorney who is admitted to practice before this Court.

Fill in this information to identify the case:

Debtor 1

First Name Middle Name Last Name

Debtor 2

(Spouse, if filing) _____
First Name Middle Name Last Name

United States Bankruptcy Court for the District of Utah

Case number: _____

APPLICATION FOR PAYMENT OF UNCLAIMED FUNDS

1. Claim Information

For the benefit of the Claimant(s)¹ named below, application is made for the payment of unclaimed funds on deposit with the court. I have no knowledge that any other party may be entitled to these funds, and I am not aware of any dispute regarding these funds.

Note: If there are joint Claimants, complete the fields below for both Claimants.

Amount:

Claimant's Name:

Claimant's Current Mailing
Address, Telephone Number,
and Email Address:

2. Applicant Information

Applicant² represents that Claimant is entitled to receive the unclaimed funds because (*check the statements that apply*):

- Applicant is the Claimant and is the Owner of Record³ entitled to the unclaimed funds appearing on the records of the court.
- Applicant is the Claimant and is entitled to the unclaimed funds by assignment, purchase, merger, acquisition, succession or by other means.
- Applicant is Claimant's representative (e.g., attorney or unclaimed funds locator).
- Applicant is a representative of the deceased Claimant's estate.

3. Supporting Documentation

- Applicant has read the court's instructions for filing an Application for Unclaimed Funds and is providing the required supporting documentation with this application.

¹ The Claimant is the party entitled to the unclaimed funds.

² The Applicant is the party filing the application. The Applicant and Claimant may be the same.

³ The Owner of Record is the original payee.

4. Notice to United States Attorney

- Applicant has sent a copy of this application and supporting documentation to the United States Attorney, pursuant to 28 U.S.C. § 2042 at attached a Certificate of Service to this application.

Office of the United States Attorney
for the District of Utah
111 South Main Street, Suite 1800
Salt Lake City, Utah 84111

5. Applicant Declaration

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____

Signature of Applicant

Printed Name of Applicant

Address: _____

Telephone: _____

Email: _____

5. Co-Applicant Declaration (if applicable)

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____

Signature of Co-Applicant (if applicable)

Printed Name of Co-Applicant (if applicable)

Address: _____

Telephone: _____

Email: _____

6. Notarization

STATE OF _____

COUNTY OF _____

This Application for Unclaimed Funds, dated _____ was subscribed and sworn to before me this _____ day of _____, 20_ _____ by _____

who signed above and is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument. WITNESS my hand and official seal.

(SEAL) Notary Public _____

My commission expires:

6. Notarization

STATE OF _____

COUNTY OF _____

This Application for Unclaimed Funds, dated _____ was subscribed and sworn to before me this _____ day of _____, 20_ _____ by _____

who signed above and is personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument. WITNESS my hand and official seal.

(SEAL) Notary Public _____

My commission expires:

Fill in this Information to identify the			
Debtor 1	_____		
	First Name	Middle Name	Last Name
Debtor 2	_____		
(Spouse, if filing)	First Name	Middle Name	Last Name
United States Bankruptcy Court for the District of Utah			
Case number: _____			

NOTICE OF OBJECTION DEADLINE

PLEASE TAKE NOTICE that the attached Application to Pay Unclaimed Funds has been filed with the United States Bankruptcy Court for the District of Utah.

Right to Object. Any party in interest who objects to the Application for Payment of Unclaimed Funds being sought in this Application must, within twenty-one (21) days of service of this Application, file an objection or other appropriate response to this Application with the:

United States Bankruptcy Court
District of Utah
 Room 301
 350 South Main Street
 Salt Lake City, UT 84101

CERTIFICATE OF SERVICE BY MAIL OR OTHER MEANS

I hereby certify that on _____(date), I caused to be served a true and correct copy of the foregoing Application for Payment of Unclaimed Funds and all attachments as follows:

<p>Office of the United States Attorney District of Utah 111 South Main Street, Suite 1800 Salt Lake City, UT 84111</p>	<p> <input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid <input type="checkbox"/> By Hand Delivery <input type="checkbox"/> By Other Means (Describe): _____ _____ _____ </p>
--	--

<p>Debtor</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid</p> <p><input type="checkbox"/> By Hand Delivery</p> <p><input type="checkbox"/> By Other Means (Describe):</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>Debtor's Attorney</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid</p> <p><input type="checkbox"/> By Hand Delivery</p> <p><input type="checkbox"/> By Other Means (Describe):</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>If Claimant is not the original creditor or payee, the Individual or Entity for whom the funds were deposited:</p> <p>Name: _____</p> <p>Address: _____</p> <p>_____</p> <p>_____</p>	<p><input type="checkbox"/> By Mail: First-class U.S. mail, postage pre-paid</p> <p><input type="checkbox"/> By Hand Delivery</p> <p><input type="checkbox"/> By Other Means (Describe):</p> <p>_____</p> <p>_____</p> <p>_____</p>

Dated this _____ Day of _____, 20_____.

Signature

Printed Name

Privacy Policy

Applicant shall redact only the following personal data identifiers from the Application and any supporting documentation attached to the Application before filing such documents: (i) all but the last four digits of a social security number or a tax ID number; (ii) all names of minor children (use minors' initials); (iii) all but the last four digits of any bank, savings, or similar account numbers; and (iv) all birth date information except the year.

The responsibility for redacting personal data identifiers rests solely with the filing party.

Attorney Submitting (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.
	Chapter
Debtor(s).	Hon.

**REQUEST FOR ABANDONMENT AND TRUSTEE'S PROPOSED ABANDONMENT
OF PROPERTY OF THE ESTATE**

REQUEST FOR ABANDONMENT

Chapter 7 Trustee: _____

Description of Secured Property: _____

Value of Property: \$ _____

Basis of Valuation: _____

Amount of Liens, if any, on the Property: Approximately \$ _____
to: _____

The above information is true to the best of my knowledge and belief. Attached to this request are documents that reflect a properly perfected security interest in the property listed above. It is requested

that the trustee endorse this Proposed Abandonment so that it may be noticed to all parties in interest pursuant to Local Rules 6007-1. Should the chapter 7 trustee fail or refuse to endorse this Proposed Abandonment, it will not be noticed to parties in interest and shall not be effective.

Attorney Name: _____

Attorney for: _____

PROPOSED ABANDONMENT

Pursuant to 11 U.S.C. §554, I found the above listed property burdensome to the estate or of inconsequential value to the estate. I propose to abandon such property subject to the notice provisions of Bankruptcy Rule 6007, and Local Rule 6007-1.

Date:

By Electronic Endorsement
Chapter 7 Trustee

ABANDONMENT OF THE PROPERTY IDENTIFIED HEREIN IS SUBJECT TO NOTICE TO ALL INTERESTED PARTIES PURSUANT TO BANKRUPTCY RULE 6007 AND LOCAL RULE 6007-1.

Attorney Submitting (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
Email Address
Attorney for

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re:	Bankruptcy No.
	Chapter
Debtor(s).	Hon.

**NOTICE OF PROPOSED ABANDONMENT PURSUANT TO BANKRUPTCY RULE 6007 AND
BANKRUPTCY LOCAL RULES 6007-1**

OBJECTION DEADLINE: _____

TO ALL PARTIES IN INTEREST:

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

PLEASE TAKE NOTICE that pursuant a request for abandonment filed by

the chapter 7 trustee proposes to abandon the following described property of the estate:

NO HEARING WILL BE CONDUCTED ON THE PROPOSED ABANDONMENT UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE COURT ON OR BEFORE THE OBJECTION DEADLINE SET FORTH BELOW.

If you do not want the property abandoned, or if you want the Court to consider your views on the Proposed Abandonment, then, on or before _____ (date must be at least 14 days from the date of mailing this notice plus 3 days for mailing), you or your attorney must:

1. File with the Court a written response explaining your position at:

United States Bankruptcy Court
350 South Main Street, Room 301
Salt Lake City, UT 84101

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

2. Serve a copy of your response upon the following via ECF or U.S. mail:

Name
Address
(Chapter 7 Trustee)

Name
Address
(Attorney for Requesting Party)

DATED: _____.

By _____

CERTIFICATE OF SERVICE
ATTACH
LOCAL FORM 9013-3

Submitting Attorney (Utah State Bar No.)
 Address
 Telephone No.
 Facsimile No. (Optional)
 E-Mail Address (Recommended)
 Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF UTAH

In re: <div style="text-align: center;">Debtor(s).</div>	Bankruptcy No. Chapter Hon.
---	---

DECLARATION REGARDING TAX RETURNS

1. I/we, the undersigned debtor(s), declare under penalty of perjury that either: *(check one)*

 a. All federal and state tax returns for taxable periods ending during the four-year period before the filing of the petition have been filed.

OR

 b. The following tax returns for taxable periods ending during the four-year period before the filing of the petition have not been filed.

Taxing Agency	Type of Tax Return	Tax Years

2. Complete for any tax return filed after the filing of the bankruptcy petition.

On or before [], the above-named debtor(s) delivered the following copies of tax returns to the Insolvency Unit of the Internal Revenue Service and/or the Bankruptcy Unit of the Utah State Tax Commission and that such returns disclosed the following liabilities and/or refunds:

Federal or State	Tax Year	Type of Tax/Form No.	Tax Liability	Tax Refund

3. I/we acknowledge that the court will not confirm any Chapter 13 Plan and the case may be dismissed at or before the confirmation hearing unless all tax returns have been filed.

4. I/we further acknowledge that I/we will file and serve on the trustee an amended declaration if further required tax returns are filed with the taxing authorities after the date indicated in paragraph 1 above.

DATED this ____ day of _____, 20__.

Debtor

Debtor

Debtor(s)' Counsel

Debtor's Counsel Address and Telephone Number

Submitting Attorney (Utah State Bar No.)
 Address
 Telephone No.
 Facsimile No. (Optional)
 E-Mail Address (Recommended)
 Attorney for

UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF UTAH

In re: Debtor(s).	Bankruptcy No. Chapter Adversary Proceeding No. Hon.
Plaintiff(s), v. Defendant(s).	
REPORT OF PARTIES' PLANNING MEETING	

1. Pursuant to Fed. R. Civ. P. 26(f), a meeting was held on _____
 at _____ and was attended by:

2. **Pre-Discovery Disclosures.** The parties [] have exchanged] [] will exchange]
 by _____ the information required by Fed. R. Civ. P. 26(a)(1) and Local Rule 7016-1.

3. **Discovery Plan.** The parties jointly propose to the court the following discovery
 plan:

Submitting Attorney (Utah State Bar No.)

Address

Telephone No.

Facsimile No. (Optional)

E-Mail Address (Recommended)

Attorney for

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re: Debtor(s).	Bankruptcy No. Chapter
Plaintiff(s), v. Defendant(s).	Adversary Proceeding No. Hon.
PRETRIAL ORDER	

This matter having come before the court on [] at a pretrial conference held before [] pursuant to Fed. R. Bankr. P. 7016; and [] having appeared as counsel for plaintiff and [] having appeared as counsel for defendant and

[] having appeared as counsel for
[]; the following action was taken:

1. **JURISDICTION.** The jurisdiction of the court is properly invoked under 28 U.S.C. § 1334. The parties [*consent/ do not consent*] to entry of a final judgment or order by the bankruptcy judge. The jurisdiction of the court is not disputed and is hereby determined to be present.

2. **VENUE.** Venue is laid in the [*Central or Northern*] Division of the District of Utah.

3. **GENERAL NATURE OF THE CLAIMS OF THE PARTIES.**

(a) Plaintiff's claims:

(b) Defendant's claims:

(c) Other parties' claims:

4. **UNCONTROVERTED FACTS.** The following facts are established by admissions in the pleadings or by stipulation of counsel.

[

]

5. **CONTESTED ISSUES OF FACT.** The contested issues of fact remaining for decision are:

[

]

6. **CONTESTED ISSUES OF LAW.** The contested issues of law in addition to those implicit in the foregoing issues of fact are:

[

]

7. **EXHIBITS.** The following, constituting all of the exhibits to be introduced at trial, have been exchanged between the parties:

(a) Plaintiff's exhibits:

(b) Defendant's exhibits:

(c) Exhibits of other parties (if involved):

(d) Exhibits shall be presented to and marked for identification by the clerk prior to the day of trial in accordance with Local Rule 9070-1(a) or (d). The handling of exhibits both during and after trial is governed by Local Rule 9070-1(b) and (c).

8. **WITNESSES.**

(a) In the absence of reasonable notice to opposing counsel to the contrary, plaintiff will call as witnesses:

plaintiff may call:

and plaintiff will use the following depositions:

(b) In the absence of reasonable notice to opposing counsel to the contrary, defendant will call as witnesses:

defendant may call:

and defendant will use the following depositions:

(c) In the absence of reasonable notice to opposing counsel to the contrary
[] will call as witnesses:

[] may call:

and [] will use the following depositions:

(d) In the event that other witnesses are to be called at the trial, a statement of their names and addresses and the general subject matter of their testimony will be served upon opposing counsel and filed with the court at least [] days prior to trial. This restriction shall not apply to rebuttal witnesses, the necessity of whose testimony reasonably cannot be anticipated before the time of trial.

9. **AMENDMENTS TO PLEADINGS.**

There are no requests to amend pleadings.

The following order was made regarding amendments to the pleadings:

10. **DISCOVERY.** *[Check or state one]*

Discovery has been completed.

Discovery is to be completed by [].

Further discovery is limited to:

The following provisions were made for discovery:

[

].

11. **TRIAL SETTING.** The adversary proceeding is set for trial on []

at []. Estimated length of trial is [] days.

12. **SETTLEMENT.** Counsel have conferred respecting settlement of this matter and consider the possibility of settlement [*good fair poor*]. Trial will not be postponed for purposes of further settlement negotiations except upon a showing of good cause.

The foregoing proposed pretrial order (prior to execution by the court) is hereby adopted this _____ day of _____, 20_____ .

Submitting Attorney (Utah State Bar No.)
 Address
 Telephone No.
 Facsimile No. (Optional)
 E-Mail Address (Recommended)
 Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
 FOR THE DISTRICT OF UTAH

In re: <div style="text-align: center;">Debtor(s).</div>	Bankruptcy No. Chapter Hon.
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NOTICE OF [_____]
AND NOTICE OF HEARING
 (Objection Deadline: _____)
 (Hearing Date: _____)

PLEASE TAKE NOTICE that [_____]
 has filed with the United States Bankruptcy Court for the District of Utah,
 [_____].

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief requested in the
[],

then you or your attorney must take the following two steps:

(1) On or before [], file with the Bankruptcy Court a written Objection explaining your position. Your written objection must be filed electronically, by mail, or by hand-delivery at:

United States Bankruptcy Court
350 South Main Street, Room 301
Salt Lake City, UT 84101

If you mail your objection to the Bankruptcy Court for filing, it must be deposited in the U.S. Mail in sufficient time for it to be **received** by the Court on or before [].

You must also mail a copy to the undersigned counsel at

[].

(2) You must attend the hearing on the

[]

which is set for [] at [] in Courtroom ____, , United States Bankruptcy Court, Frank E. Moss Courthouse, 350 South Main Street, Salt Lake City, UT 84101. Failure to attend the hearing will be deemed a waiver of your objection. If

you or your attorney do not take these two steps, the Bankruptcy Court may decide that you do not oppose the relief sought in the

[]

and may enter an order granting that relief. In the absence of a timely filed objection, the undersigned counsel may and will ask the Court to strike the hearing enter an order approving the

[]

without hearing.

Dated this _____ Day of _____, 20____.

/s/ _____
Signature

CERTIFICATE OF SERVICE
(Attach Local Form 9013-3)

Submitting Attorney (Utah State Bar No.)
Address
Telephone No.
Facsimile No. (Optional)
E-Mail Address (Recommended)
Attorney for

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH

In re:	Bankruptcy No.
Debtor(s).	Chapter
	Hon.

NOTICE OF []
AND NOTICE OF OPPORTUNITY FOR HEARING

(Objection Deadline: _____)

PLEASE TAKE NOTICE that []
has filed with the United States Bankruptcy Court for the District of Utah,
[]

YOUR RIGHTS MAY BE AFFECTED. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

NO HEARING WILL BE CONDUCTED ON THIS

[]

UNLESS A WRITTEN OBJECTION IS FILED WITH THE CLERK OF THE COURT ON OR BEFORE THE OBJECTION DEADLINE SET FORTH BELOW.

If you do not want the Court to grant the relief requested in the

[]

then you or your attorney must take the following two steps:

(1) On or before [], file with the Bankruptcy Court a

written Objection explaining your position. Your written objection must be filed

electronically, by mail, or by hand-delivery at:

United States Bankruptcy Court
350 South Main Street, Room 301
Salt Lake City, UT 84101

If you mail your objection to the Bankruptcy Court for filing, it must be deposited in the

U.S. Mail in sufficient time for it to be **received** by the Court on or before

[]. You must also mail a copy to the undersigned counsel at

[].

(2) Attend a hearing on [at] in Courtroom _____,

United States Bankruptcy Court, Frank E. Moss Courthouse, 350 South Main Street, Salt

Lake City, UT 84101. **There will be no further notice of the hearing**, and failure to

attend the hearing will be deemed a waiver of your objection.

If you or your attorney do not take these steps, the Bankruptcy Court may decide that you

do not oppose the relief sought in the

[]

and may enter an order granting the requested relief. In the absence of a timely filed objection, the undersigned counsel may and will ask the Court to enter an order approving the

[_____]

without hearing.

Dated this _____ Day of _____, 20____.

/s/ _____
Signature

CERTIFICATE OF SERVICE
(Attach Local Form 9013-3)

CERTIFICATE OF SERVICE BY ELECTRONIC NOTICE (CM/ECF)

I hereby certify that on [_____], I electronically filed the foregoing [_____] with the United States Bankruptcy Court for the District of Utah by using the CM/ECF system. I further certify that the parties of record in this case, as identified below, are registered CM/ECF users.

CERTIFICATE OF SERVICE BY MAIL OR OTHER MEANS

I hereby certify that on [_____], I caused to be served a true and correct copy of the foregoing [_____] as follows: [*Select only the methods of service that apply*]

Mail Service: First-class U.S. mail, postage pre-paid, addressed to:

Mail Service to All Parties in Interest: First-class U.S. mail, postage pre-paid, addressed to all parties who did not receive electronic service as set forth herein listed on the Official Court Mailing Matrix dated _____ attached hereto.

*[If notice is required to be served on all parties in interest (i.e. Rule 2002 notices), **you must attach** a copy of the court's official case mailing matrix bearing the same date as the certificate of service. You can obtain a PDF copy of the most current mailing matrix by going to CM/ECF and using Utilities–Miscellaneous–Mailings–Mailing Matrix by Case. Note that parties receiving electronic notice do not need to receive additional notice by mail.]*

Certified Mail Service – By certified United States mail, postage pre-paid, addressed to:

Hand Delivery – By delivery to the following parties at:

Other – [identify parties served and manner of service]:

/s/ _____
(Signature)

DESIGNATION OF PARTIES TO RECEIVE NOTICE OF COURT ORDER

Service of the foregoing Order []
shall be served on the parties in the manner designated below:

By Electronic Service: I certify that the parties of record in this case, as identified below, are registered CM/ECF users.

By U.S. Mail: In addition to the parties receiving notice through the CM/ECF system, the following parties should be served notice pursuant to Fed R. Civ. P. 5(b).

- None
- Additional parties listed below:

All parties on the Court's official matrix

/s/ _____

(Signature by Filer)