LOCAL BANKRUPTCY RULES

FOR THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF MONTANA

Honorable Benjamin P. Hursh
Chief United States Bankruptcy Judge

Effective December 1, 2026~~5~~

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LOCAL BANKRUPTCY RULES
FOR THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

PART I

RULE 1001-1. Scope, Applicability, and Promulgation of Local Rules; Short Title.

(a) **Scope.** The Local Bankruptcy Rules ("Local Rules") govern practice and procedure in the United States Bankruptcy Court for the District of Montana. The Local Rules shall be cited as "Mont. LBR _____." The term "Judge," as used in these Local Rules, includes a United States Bankruptcy Judge, a United States District Judge, or any other judicial officer to whom a bankruptcy case or proceeding has been referred. The term "Clerk," as used in these Local Rules, refers to the Clerk of Court for the United States Courts for the District of Montana. Local Bankruptcy Forms in the Appendix to these Local Rules shall be cited as "Mont. LBF _____."

(b) **Applicability.** Unless otherwise indicated, the Local Rules apply to cases commenced under Chapters 7, 9, 11, 12, 13, and 15 of the U.S. Bankruptcy Code and to all Adversary Proceedings.

(c) **Promulgation.** The Bankruptcy Judge promulgates these Local Rules in accordance with Rule 9029 of the Federal Rules of Bankruptcy Procedure (Fed. R. Bankr. P.), and Rule 83 of the Federal Rules of Civil Procedure (Fed. R. Civ. P.).

(d) **Numbering.** Each Local Rule is numbered by reference to the corresponding Fed. R. Bankr. P. Except as otherwise provided, the authority for each Local Rule is the corresponding Fed. R. Bankr. P.

(e) **Electronic Filing and Address Changes.** The Court implemented the Case Management/Electronic Case Filing System (CM/ECF) in August 2002. FILING THROUGH CM/ECF IS MANDATORY FOR ALL USERS IN ALL BANKRUPTCY CASES AND ALL ADVERSARY PROCEEDINGS, EXCEPT SELF-REPRESENTED LITIGANTS INCLUDING SELF-REPRESENTED CREDITORS. To receive electronic service through CM/ECF, a party must be a registered PACER user and have an email address that is maintained. Instructions for obtaining a PACER account are available on the Court's website.

(f) **Self-Represented Litigants.** Self-represented litigants must complete all filings by mail, or through in-person delivery to the clerk's office with the following exceptions:

(1) Self-represented debtors may (but are not required to) use eSR—Electronic Self-Representation to file a Chapter 7 bankruptcy petition. Information on the eSR program can be found on the Court's website;

(2) Self-represented debtors may (but are not required to) request receipt of court notices and orders via email and submit their documents via email by participating in the Debtor Electronic Bankruptcy Noticing (DeBN) program. Information on the DeBN program can be found on the Court's website; and

(3) Self-represented creditors may (but are not required to) utilize the Electronic Proof of Claims (ePOC) system. Information on ePOC can be found on the Court's website.

Related Authority:
28 U.S.C. §§ 151, 2071, 2072, and 2075
Fed. R. Bankr. P. 1001, 5005, and 9029
Fed. R. Civ. P. 83

RULE 1002-1. Petition - General.

(a) **Petitions.** All petitions shall conform to Official Form 101.

(b) **Filing.** A petition commencing a case under the U.S. Bankruptcy Code shall be filed electronically through CM/ECF unless the filer is a self-represented litigant, and then by filing with the clerk's office.

(c) **No Blank Items.** Each item in the petition not otherwise filled out shall be completed by the entry of "none" or "not applicable," as appropriate.

(d) **Documents Signed by Someone Other Than Debtor.** If a voluntary petition for an individual debtor or other document is signed on debtor's behalf by someone other than debtor, the name and capacity of the person signing on debtor's behalf must be clearly stated under the signature line. In addition, a copy of documentation evidencing the authority of the signer to act on debtor's behalf must be filed at the same time as the petition. If there is no such documentation, a statement explaining how the petition complies with Fed. R. Bankr. P. 1004.1 must be filed with the petition. A certificate of service shall be filed no later than 14 days after the case has commenced, which identifies that both a copy of the filed petition and a notice of bankruptcy case were mailed to the non-signing debtor at the non-signing debtor's last known address on file with the Court.

Related Authority:
Fed. R. Bankr. P. 1002 and 5005
Bankruptcy Official Form 101

Comment:

This Local Rule in (d) is designed for debtor's protection and does not confer authority on others to file petitions or other documents, such as schedules, reaffirmation agreements, etc., on debtor's behalf. It is designed to make it clear when documents are signed by a representative such as a general guardian, committee, conservator, or similar fiduciary on debtor's behalf so parties in interest may determine whether it is appropriate. Attorneys filing such a petition should review applicable laws and Rules of Professional Conduct.

RULE 1005-1. Petition - Caption.

(a) **Debtor's Current Name.** The title of the case shall include debtor's full and correct name.

(1) **Corporations, Limited Liability Companies, and Partnerships.** If debtor is a corporation, a limited liability company, or a partnership, the title of the case shall so specify as follows:

ABC, Inc., a Corporation; XYZ, a General (or Limited) Partnership; or Blackacre, LLC.

(2) **Joint Petitions**. Pursuant to 11 U.S.C. § 302, only a married couple may file a joint petition. The title of the case shall identify them as follows:

John Robert Doe, Jr., and Jane Roberta Doe.

(b) **Other Names Used by Debtor.** Debtor shall include in the petition any other names used by debtor, including assumed business names or dbas, in the eight years preceding the commencement of the case, the last four digits of the social security or individual debtor's taxpayer identification number, and any other federal taxpayer identification number.

(c) **Debtor's Current Address.** Debtor shall include a physical street address on the petition, if available, and mailing address if it differs from the street address.

Related Authority:
Fed. R. Bankr. P. 1005 and 9004

RULE 1006-1. Fees; Installment Payments.

(a) **General Requirement.** Every petition shall be accompanied by either the filing fee required by statute or the Judicial Conference of the United States, or Official Form 103A or 103B requesting payment in installments or a filing fee waiver.

(b) **Failure to Pay Installment.**

(1) **Notice of Nonpayment.** If an individual debtor fails to pay an installment as required by this Local Rule and as approved in the application, the Clerk shall provide written notice to debtor, debtor's attorney, if any, and trustee that such installment must be paid within 14 days of the notice.

(2) **Dismissal of Case.** If an individual debtor fails to pay an installment after notice and within the required 14-day period, the Clerk shall enter a Notice of Pending Dismissal that explains the case will be dismissed without further notice or a hearing if the payment is not received within 14 days of the date of the Notice of Pending Dismissal.

Related Authority:
Fed. R. Bankr. P. 1006 and 1017(b)
Bankruptcy Official Form 103A and 103B

RULE 1007-1. Schedules, Statement of Financial Affairs, Statement of Social Security Number, and Other Official Forms.

(a) **No Blank Items.** Every blank in every form must be completed, and all of the information required by the Official Forms must be provided.

(b) **Summary of Assets and Liabilities.** In all Chapter 7, 11, 12, and 13 cases, debtor shall file Official Form 106 Summary or 206 Summary (as appropriate), which lists a summary of all assets and liabilities that itemizes all priority, secured, and unsecured claims; itemizes all real and personal property, and any exemptions claimed; and totals the amounts of all assets, all liabilities, and all exemptions claimed. Debtor shall attach an amended Official Form 106 Summary or 206 Summary (as appropriate) to any amended schedule or statement the debtor files.

(c) **Corporate or Limited Liability Company Petition Accompanied by Resolution.** A petition filed by a corporation or a limited liability company under Chapters 7, 11, or 12 shall include a resolution adopted by the directors or members or managers and, if required by the corporate bylaws or the laws of the state of incorporation, a resolution adopted by shareholders authorizing the relief sought (or a certification by the person signing the petition or debtor's attorney that a shareholders' resolution is not required).

(d) **Incomplete Filings and Dismissal.** If the schedules, statement of financial affairs, and other required forms are not filed with the petition, the Clerk will enter a Deficiency Notice that identifies each omitted item. If the omitted items are not received by the Clerk before the deadline stated in the Deficiency Notice, the Clerk will enter a Notice of Pending Dismissal that explains the case will be dismissed without further notice or a hearing if the deficiency is not cured within 14 days of the date of the Notice of Pending Dismissal.

(1) If the Statement About Your Social Security Number, Official Form 121, as required by Fed. R. Bankr. P. 1007(f) and 4002(b)(1)(B) is not filed with the petition, the Clerk will enter a Notice of Pending Dismissal for Failure to File Statement of Social Security Number that explains that if the missing form is not received within seven days after the date of filing of the voluntary petition, the case will be dismissed without further notice or a hearing.

(e) **Extension of Time.** Except as provided in 11 U.S.C. § 1116(3), an extension of time under Fed. R. Bankr. P. 1007(c) to file schedules, statement of financial affairs, or other required documents will not be granted beyond three days before the date set for the first meeting of creditors pursuant to 11 U.S.C. § 341(a) unless a judge orders otherwise for cause shown. Any motion for extension of time filed under this Local Rule shall:

(1) state the date of extension requested; and

(2) identify the date currently set for the meeting of creditors pursuant to 11 U.S.C. § 341(a) or affirmatively allege that no date has been set.

An extension beyond the three days outlined in subsection (e) of this Local Rule will not be granted unless debtor has been granted under Mont. LBR 2003-4 a continuance of the meeting of creditors pursuant to 11 U.S.C. § 341(a), and the confirmation hearing if applicable, and provided appropriate notice thereof.

A motion for extension of time filed after the Notice of Pending Dismissal is entered, but before it expires, will be denied absent a showing of extraordinary circumstances beyond the debtor's control.

(f) **Retention of Signed Copies.** Signatures on documents that are electronically filed and that require original signatures other than from the authorized CM/ECF user must be maintained in one of the two following manners:

(1) **Original Signatures.** The originally signed paper copies of a bankruptcy petition and accompanying papers required to be verified under Fed. R. Bankr. P. 1008 and any declaration made by any party under penalty of perjury in accordance with 28 U.S.C. § 1746 must be retained by the CM/ECF user for five years after the date that the case or proceeding is closed. The Court, on its own motion or on the request of a party in interest, may require the production of any originally signed document; or

(2) **Scanned Signatures.** The pages bearing the signatures must be scanned into CM/ECF after the electronic version of the document bearing the parties' electronic signatures.

(g) **Tax Returns and Refunds.**

(1) **Restrictions Regarding Debtor's Tax Information.** Tax information that is filed with the Court and provided to creditors and trustees is subject to the Administrative Office's guidance regarding tax information as from time to time promulgated. Any person receiving copies of debtor's tax information shall treat the information as confidential and shall not disseminate it except as appropriate under the circumstances of the case.

(2) **Tax Refunds.** Immediately upon receipt, debtor shall turn over all applicable income tax refunds to trustee.

Related Authority:
11 U.S.C. §§ 102, 109, 521, 1116, 1308, and 1325

Comment:

The Official Bankruptcy Forms for Schedules D and F require creditor's name, address, account number, the date the claim was incurred, the consideration for the claim, the amount of the claim, and other information. Be sure to provide an approximate date (or a range of dates) for when each debt was incurred and indicate the underlying basis for the claim (e.g., medical bills incurred from 5/99 through 6/03). Filing incomplete schedules or statement of financial affairs may result in denial of discharge or the disgorgement of fees.

As the Administrative Office's Guidance may change, please refer to the Court's website at www.mtb.uscourts.gov for the most recent version. (Director's Interim Guidance Regarding Tax Information under 11 U.S.C. § 521)

The five-year retention requirement is intended to coincide with the statute of limitations for the bankruptcy fraud provisions of 18 U.S.C. § 151, et. seq.

RULE 1007-2. Master Mailing List.

(a) **Filing Requirements.**

(1) **Voluntary Case.** A "master mailing list," also known as the "mailing matrix" or "matrix," shall be filed with the petition in the form required by the Clerk at that time. The master mailing list shall include the name and mailing address of every creditor, each general and limited partner for a partnership debtor, the most recent officers and directors for a corporate debtor, all equity security holders, and the members or managers of a limited liability company. If debtor does not file a master mailing list with the petition, debtor shall file a Notice of Filing of Creditor Mailing Matrix that attaches the master mailing list as an exhibit with the Clerk.

(2) **Involuntary Case.** With every involuntary petition, there shall be filed a master mailing list that includes the name and address of each petitioner, the petitioner's attorney, debtor, any debtor's attorney, all last known general partners if debtor is a partnership, all last known officers if debtor is a corporation, and the last known members and managers if debtor is a limited liability company.

(3) **Duty to Supplement.** A supplemental mailing list setting forth newly added creditors, additional parties in interest, and all previously listed creditors and parties in interest shall be filed with all schedules or amended schedules, which will replace any previously filed mailing list. Debtor's failure to file a replacement mailing list with all creditors and parties in interest, including any added persons, and to certify that a Notice of Commencement of Case, if previously entered by the Clerk, has been mailed to all added parties shall be grounds for the Court to dismiss debtor's petition without further notice or a hearing.

(b) **Accuracy and Completeness.** The debtor is responsible for the accuracy and completeness of

the master mailing list. When serving notices, the Clerk and any party in interest may rely exclusively on the master mailing list. It shall be debtor's responsibility to amend the matrix whenever it appears that a creditor or other party in interest was omitted.

(c) **Dismissal.** If the master mailing list containing the names and addresses of each entity included or to be included on Schedules D, E/F, G, and H as required by Mont. LBR 1007-2(a) and 11 U.S.C. § 521(a)(1)(A), and the List of the 20 Largest Unsecured Creditors, if required by Fed. R. Bankr. P. 1007(d), are not filed with the petition, the Clerk will enter a Notice of Pending Dismissal for failure to file a Master Mailing List or List of the 20 Largest Unsecured Creditors explaining that if the missing list(s) are ~~is~~ not received before the expiration of the fourteenth ~~seventh~~ day following the date of the petition, the case will be dismissed without further notice or a hearing.

Related Authority:
11 U.S.C. § 102
Fed. R. Bankr. P. 1007, 1017, and 9004

RULE 1009-1. Amendments to Petition, Schedules, Master Mailing List, and Statement.

(a) Amendments Generally. Under Fed. R. Bankr. P. 1009, debtor may amend the petition, list, schedule, or statement at any time before the case is closed. Debtor shall:

(1) file a notice of amendment together with the amended petition, list, schedule, or statement (*See* Mont. LBF 4); and

(2) contemporaneously serve the amendment on all entities affected by the amendment;

(3) if the notice of amendment either adds creditors or parties in interest not previously included in the schedules or on the mailing list, or if the amendment corrects an address or listed debt, the notice shall explain and identify which creditors shall be added to or removed from the mailing matrix so that the Clerk can update the master mailing list;

(4) file Official Form 106 Summary or 206 Summary (as appropriate).

A party in interest that intends to amend a petition, list, schedule, or statement must file a motion in compliance with Mont. LBR 9013-1.

(b) **Interlineation.** No amendment by interlineation shall be permitted. The entire page or pages that the amendment affects shall be redrafted and filed, and the amendments shall be clearly identified with the word "Amended" and the date of the amendment.

(c) **Denomination of Amendment.** Any amended document shall clearly state that it is an amendment to the original.

(d) **Notification.** If debtor files a notice of amendment, debtor shall serve on any affected creditor or party in interest a copy of the following, as applicable, and file a certificate of service verifying such service:

(1) the amended list or schedule;

(2) the "Notice of Chapter [7, 11, 12, or 13] Bankruptcy Case" and

(3) the order granting discharge, if any.

Related Authority:
Fed. R. Bankr. P. 1009

RULE 1015-1. Joint Administration and Consolidation.

(a) **Joint Administration.** A motion seeking the joint administration of the cases of two or more related debtors shall be made pursuant to Fed. R. Bankr. P. 1015(b).

(b) **Consolidation.** A motion seeking to consolidate two or more cases shall, if granted, result in the substantive consolidation of such cases for all purposes unless otherwise ordered by the Court. The debtors' estates shall be consolidated in a case jointly filed by a married couple unless the Court orders otherwise.

Related Authority:
11 U.S.C. § 302
Fed. R. Bankr. P. 1015 and 2009

Comment:

While joint administration is contemplated and provided for in the Fed. R. Bankr. P., the substantive consolidation of the estates of separate debtors is not. Consolidation of non-related parties is not mentioned in the Bankruptcy Code or Rules. As noted in the Advisory Committee Notes under Fed. R. Bankr. P. 1015, consolidation, as distinguished from joint administration, "is neither authorized nor prohibited by this rule since the propriety of consolidation depends on substantive considerations and affects the substantive rights of creditors of separate estates." Consolidation is a judicially created doctrine, which must be expressly sought, and the grounds therefore proven. Trustee or debtor in possession must keep separate accounts of the property and distribution of each estate being jointly administered as required under Fed. R. Bankr. P. 2009(e).

RULE 1017-1. Dismissal or Conversion.

(a) Notice of Conversion from Chapter 12 or 13 to Chapter 7. A debtor seeking a conversion under 11 U.S.C. §§ 1208(a) or 1307(a) to a case under Chapter 7 shall file a notice of conversion in compliance with Mont. LBF 10. No motion or court order is required. The filing date of the notice becomes the date of conversion.

(b) **Motions and Notices to Dismiss or Convert Filed by Debtor.**

(1) **Motion by Debtor for Conversion from Chapter 7 or 11.** A debtor seeking conversion under 11 U.S.C. § 706(a), if the case has not been previously converted from another chapter, shall file a motion for conversion to the desired chapter with a notice pursuant to Mont. LBR 9013-1(f).

A debtor seeking conversion under 11 U.S.C. § 1112(a) or (d) shall file a motion for conversion to the desired chapter without a notice pursuant to Mont. LBR 9013-1(f). Such a motion will be granted without a hearing.

(2) **Motion by Debtor for Dismissal from Chapter 7 With Notice.** A debtor seeking dismissal under 11 U.S.C. § 707(a) shall file a motion for dismissal, setting forth alleged facts showing no plain legal prejudice to creditors, with the notice required under Mont. LBR 9013-1(f).

(3) **Motion by Debtor for Dismissal from Chapter 12 With Notice.** A debtor seeking dismissal under 11 U.S.C. § 1208(b) shall file a motion for dismissal with a notice pursuant to Mont. LBR 9013-1(f).

(4) **Motion by Debtor for Dismissal from Chapter 13.** If the case has not been converted from another chapter, a debtor may seek dismissal of the case by filing with the clerk of the bankruptcy court a motion for voluntary dismissal pursuant to 11 U.S.C. § 1307(b) which may be ruled on without a hearing pursuant to Rule 9013-1(i)(2). The certificate of service must evidence that the motion for dismissal was served upon the Chapter 13 trustee and the United States trustee.

(5) **Notice of Conversion from Chapter 12 or 13 to Chapter 7.** A debtor seeking a conversion under 11 U.S.C. §§ 1208(a) or 1307(a) to a case under Chapter 7 shall file a notice of conversion in compliance with Mont. LBF 10. No motion or court order is required. The filing date of the notice becomes the date of conversion.

(cb) Motion to Dismiss or Convert Filed by Trustee or Other Party in Interest. The trustee or other party in interest may file a motion to dismiss or convert a case to a case under another chapter in accordance with Fed. R. Bankr. P. 1017, by using Mont. LBF 27, with service of the motion on debtor, debtor's attorney, and trustee. The motion shall include a legal and factual basis for the motion and a notice pursuant to Mont. LBR 9013-1(e).

~~**(c) Dismissal of Related Title 11 Proceedings and Matters. Whenever a case filed under Title 11 is dismissed, any related adversary proceeding, contested matter, or any other pending matter shall likewise be dismissed without prejudice and further order of the Court unless the Court orders otherwise. Cases with pending appeals may be dismissed, but the dismissal of the case shall not be deemed to deprive any appellate court of its jurisdiction. Dismissal shall not be deemed to deprive the Bankruptcy Court of the authority to rule on the reasonableness of the professional fees and costs charged by debtors attorney as provided for in Mont. LBR 2016-1(d).**~~

(d) Trustee's Professional Fees.
When a Chapter 7 case is converted to another chapter, the Chapter 7 trustee shall file an application for professional fees and costs within 30 days following the conversion. The fee application may be denied if it is not filed within the time allowed.

Related Authority:
11 U.S.C. §§ 348, 349, 706, 707, 930, 1112, 1208, and 1307
Fed. R. Bankr. P. 1017 and 1019

Comment:

A motion to dismiss or convert shall be served pursuant to Fed. R. Bankr. P. 2002. Unless the moving party expressly consents to a continuance for a specific period of time or compelling circumstances prevent the Court from meeting the time limits established by 11 U.S.C. § 1112(b)(3), the Court must commence the hearing on a motion to dismiss or convert under 11 U.S.C. § 1112(b) not later than 30 days after the filing of the motion and must decide the motion not later than 15 days after the commencement of the hearing.

RULE 1019-1. Conversion from One Chapter to Another.

(a) **Debtor's Schedules Following Conversion.** Within 14 days following conversion to another chapter, debtor shall file revised schedules of assets and liabilities, and revised statements of income and expenses that reflect any changes in such items since the filing of the original petition.

(b) **Notification.** If debtor files an amendment adding creditors or parties in interest not previously included in the schedules or included on the mailing list, or if the amendment corrects an address or listed debt, the person filing the amendment shall serve copies of the required documents in compliance with Mont. LBR 1009-1.

RULE 1074-1. Representation of Corporations, Partnerships, Limited Liability Companies, Trusts, Associations, and Other Legal Entities.

Other than at the meeting of creditors held pursuant to 11 U.S.C. § 341(a), corporations, including corporate creditors, partnerships, limited liability companies, trusts, associations, and other legal entities, shall be represented in court proceedings by an attorney. Such entities are not required to retain attorneys to file proofs of claim, reaffirmation agreements, or stipulations to modify stay.

Related Authority:
28 U.S.C. § 1654

PART II

RULE 2002-1. Notice to Creditors and Other Parties in Interest.

(a) **Duty to Provide Notice.** Unless otherwise directed in these Local Rules or by the Court, notices shall be provided pursuant to Mont. LBR 9013-1(f).

(b) **Chapter 12 and 13 Plans.** The debtor or debtor's counsel shall be responsible to serve copies of Chapter 12 or 13 Plans or Amended Plans on all creditors and other parties in interest, and to file a certification of service listing the names and addresses of all parties served.

(c) **Method of Service.** Notices and documents required to be sent by a party other than the Clerk shall be served through CM/ECF to authorized users and by mailing, as defined in Fed. R. Bankr. P. 9001(8), to any person not authorized to use CM/ECF unless such person has consented by notification to the Clerk that such person requests notification by a specified type of electronic transmission pursuant to Fed. R. Bankr. P. 9036.

(d) **Certification of Service.** Any certificate of service must fulfill the requirements set forth in Mont. LBR 9013-1(e)(2). The certificate of service does not need to include any person notified through CM/ECF, as such person is identified on the notice of electronic filing generated through CM/ECF.

RULE 2002-2. Requests for Special Notice.

Any creditor or other party in interest may request special notice and the addition of its name to the master mailing list in a bankruptcy case by using Mont. LBF 23 or any similar request form.

Related Authority:
Fed. R. Bankr. P. 2002(a) and (g), 3015(d), 9001(8), and 9010

Comment:

Persons to be served with a Request for Special Notice include debtor, all creditors, trustee, and the Office of the U.S. Trustee.

RULE 2002-3. Notice to United States and Montana State Agencies.

Notices required by Fed. R. Bankr. P. 2002(j) and to agencies of the United States and the State of Montana listed in the schedules of creditors or mailing matrix shall be served at the addresses maintained on the Court's website. In addition to notices required by Fed. R. Bankr. P. 2002(j) and to agencies of the United States and the State of Montana listed in the schedules of creditors or mailing matrix, copies of notices shall be served in all cases to the Montana Department of Revenue and the Office of the United States Trustee at the address maintained on the Court's website.

RULE 2002-4. Notice of Application for Professional Fees and Costs.

If an application for professional fees or reimbursement of expenses exceeds $1,000.00, except as otherwise provided in Mont. LBR 2016-1, the professional shall file a notice with the Court consistent with Mont. LBR 9013-1 and Mont. LBF 18, providing a notice period of 21 days within which a party in interest may object. The professional shall serve the notice on debtor and trustee, their respective attorneys, U.S. Trustee, creditors having timely filed proofs of claim, any committee, and entities explicitly requesting copies of all notices, and confirm such service has been accomplished by filing a certificate of service.

Related Authority:
Fed. R. Bankr. P. 2002(a)(6)

RULE 2003-1. Scheduling of Creditors' Meetings, Bankruptcy Information Sheet, and Debtor Declaration Sheet.

The U. S. Trustee shall schedule, pursuant to Fed. R. Bankr. P. 2003, the meeting of creditors held pursuant to 11 U.S.C. § 341(a). Each debtor will be provided and given the opportunity to read the "Bankruptcy Information Sheet" prepared by the Office of the United States Trustee, which is set forth in Mont. LBF 32. The debtor will be asked by trustee whether they have received and reviewed this information sheet. Debtor's counsel shall provide copies of the Bankruptcy Information Sheet (Mont. LBF 32) to their clients before the meeting of creditors held pursuant to 11 U.S.C. § 341(a) to allow debtor sufficient time to read the same.

Related Authority:
11 U.S.C. §§ 341 and 343
Fed. R. Bankr. P. 2003

RULE 2003-2. Time Limitations of Creditors' Meetings.

The U.S. Trustee or trustee, at a meeting of creditors held pursuant to 11 U.S.C. § 341(a), shall have full authority to allocate available time to each meeting scheduled during each time period, place time limitations for creditors to examine debtor in order to conclude or adjourn all meetings within the time period scheduled, and to call the docket in such order as appears necessary to facilitate the orderly conduct of meetings.

RULE 2003-3. Attendance and Cooperation at Creditors' Meetings.

(a) **Attendance by Debtor and Debtor's Counsel.** A debtor and debtor's attorneys shall attend the meeting of creditors held pursuant to 11 U.S.C. § 341(a). However, debtor's attorney may arrange for other counsel to attend in his or her absence, subject to proper disclosure being made pursuant to Fed. R. Bankr. P. 2016, and Mont. LBR 2090-5(c), and subject to debtor's authorization. If debtor appears and debtor's attorney fails to appear, trustee may proceed with the scheduled meeting of creditors, subject to directives from U.S. Trustee. In cases of joint petitions, both debtors must appear.

Related Authority:
11 U.S.C. §§ 341 and 343
Fed. R. Bankr. P. 4002

RULE 2003-4. Continuance of Meeting of Creditors.

An application seeking the continuance of the meeting of creditors held pursuant to 11 U.S.C. § 341(a) shall be made to trustee and not to the Court. Trustee shall grant or deny such application as it deems appropriate. A written application for a continuance shall conform with Mont. LBF 5 and shall be made at least 14 days before the scheduled meeting. Trustee shall file a Notice of Disposition granting or denying the application in conformity with Mont. LBF 5-A, which shall include the date and time of the continued meeting of creditors if the application is granted. Trustee shall serve a copy of the disposition on debtor's attorney or on debtor if it is a self-represented litigant. If the application is granted, debtor or debtor's attorney must notify all creditors and parties in interest of the continuance at least seven days before the original date set for the meeting. Such notice shall conform with Mont. LBF 6. Proof of service of the mailing of such notice of continuance shall be filed with the Clerk.

Comment:

U.S. Trustee's calendar of dates for creditor meetings held pursuant to 11 U.S.C. § 341(a) is generally set three months in advance and can be reviewed at U.S. Trustee's website located at mtb.uscourts.gov/calendar-hearing-341-dates. The application for continuance form (Mont. LBF 5) must be served upon trustee and U.S. Trustee and should not be filed with the Court. If granted, the continuance form (Mont. LBF 6) must be served upon all creditors, trustee, and U.S. Trustee.

RULE 2003-5. Debtor Duties.

(a) **Identification.** In every case, debtor or debtor's attorney shall provide trustee assigned to such case ***ORIGINAL*** forms of picture identification and proof of social security number at least 14 days before the first date set for debtor's meeting of creditors held pursuant to 11 U.S.C. § 341(a). Acceptable forms of *proof of identification* include the following original or certified documents, provided they contain a photograph of debtor: driver's license; government ID; state picture ID; student ID; U.S. passport; military ID; and resident alien card. Acceptable forms of *proof of social security number* include the following original or certified documents: social security card; medical insurance card; pay stub; W-2 form; IRS form 1099; and Social Security Administration report.

(b) **Cooperation.** In every case, debtor or debtor's attorney shall provide trustee assigned to such case (and U.S. Trustee, if requested) with copies of the documents and materials specified in Mont. LBF 33, a fully completed Mont. LBF 33 Form, and other books, records, and documents requested by trustee or U.S. Trustee that are consistent with Fed. R. Bankr. P. 4002 (documents and Form may be sent to trustees via email in .pdf format), at least 14 days before the first date set for debtor's meeting of creditors held pursuant to 11 U.S.C. § 341(a) unless otherwise agreed to by trustee. Failure to provide all the documents or other materials requested by trustee or U.S. Trustee, or to cooperate with any inquiry or request made of debtor, may be grounds for dismissal, conversion, or denial of discharge by the Court upon an appropriate pleading being filed with the Court.

RULE 2003-6. Oral Notice of Continuance of Meeting of Creditors.

At trustee's sole discretion, oral notice of a continuance or adjournment may be given at the time of the meeting of creditors held pursuant to 11 U.S.C. § 341(a). Written notice of the oral continuance of the meeting of creditors shall be filed with the Clerk by trustee.

Related Authority:
Fed. R. Bankr. P. 2003(e)

RULE 2003-7. Failure to Appear at Creditors' Meetings.

If debtor fails to appear at the meeting of creditors scheduled pursuant to 11 U.S.C. § 341(a), the case may be dismissed or converted by the Court upon notification by trustee or U.S. Trustee of debtor's failure to appear (*See* Mont. LBF 7 and 7-A), unless debtor or debtor's attorney filed an application for continuance not later than 14 days before the scheduled meeting of creditors, as required under Mont. LBR 2003-4 and trustee granted such application. Failure to timely file an application for continuance may result in the case being dismissed or converted unless trustee or other party in interest requests that the case remains open or in the present chapter. If one debtor

in a joint case fails to appear, the Court may bifurcate the joint case and dismiss or convert the absent debtor's case.

Comment:

The trustee may request that the case remain open or remain in its present chapter and is further allowed to oppose the entry of debtor's discharge based on failure to appear. 11 U.S.C. §§ 704 and 727. Note that dismissal on this ground falls within the scope of 11 U.S.C. § 109(g)(1).

RULE 2004-1. Rule 2004 Examinations.

Any party in interest moving the Court for an order allowing the examination of an entity pursuant to Fed. R. Bankr. P. 2004 shall make the motion in compliance with Mont. LBF 15 and shall provide a form of order in compliance with Mont. LBF 16.

Related Authority:
Fed. R. Bankr. P. 2004 and 2005

RULE 2014-1. Applications for Employment of Professionals.

(a) **Applications for Employment.** All applications to approve the employment of professionals by a trustee, debtor in possession, or committee shall conform with Mont. LBF 1.

(b) **Service of Application.**

(1) Copies of the application for approval of employment, the verified statement, and any accompanying documents shall be served on the United States Trustee.

(2) In non-Chapter 11 cases, service shall also be made upon the debtor and debtor's counsel. If the application is filed by a party other than the trustee, service shall also be made upon the trustee and the trustee's counsel.

(3) In a Chapter 11 case, service shall be made upon members of any creditors' committee and the committee's attorneys. In the event no committee has been appointed, service shall be made on the 20 largest unsecured creditors. If the application is made by a party other than the debtor, service shall be made on the debtor and the debtor's attorney.

(4) Proof of the service required herein shall be filed with the application.

(c) **No Retroactive Approval of Applications.** Unless otherwise stated, an Order granting an application to employ a professional will be effective as of the date of filing of the application. Requests for *nunc pro tunc* or retroactive approval to a date prior to the filing date of the application will not be granted absent a showing of extraordinary circumstances.

(d) **Real Estate Agents.** If a debtor or trustee seeks to employ a real estate agent, the filer shall either file a fully executed listing agreement with the employment application or file a fully executed listing agreement within seven days after the Court approves the real estate agent's employment.

(e) **Applications Requiring Additional Notice.** Subject to subsection (g), at least 14 days' notice of an application to employ a professional person under 11 U.S.C. § 327 must be given to the parties identified in subsection (b) if any of the following circumstances or conditions are present:

(1) The professional files an application for retention that identifies a potential conflict may exist. In such cases, the application and notice must state sufficient facts for parties in interest to determine whether a conflict of interest exists, including whether the professional represented the debtor prepetition;

(2) The professional's retainer or other fees have been, or will be, paid by a third-party payor. In such cases, the application must include a verified statement of the debtor disclosing all transfers by the debtor to the entity providing the retainer and any other circumstances that may create a conflict of interest between the debtor and the payor. The payor must retain independent counsel or provide a written acknowledgement that the debtor's attorney's duty of loyalty is owed solely to the debtor, and not to the payor;

(3) The professional represents multiple debtors in related or jointly administered cases;

(4) A trustee seeks to employ his or her own firm. In such cases, the application must explain why such employment is in the best interests of the estate.

(5) The professional proposes to be paid under non-traditional compensation arrangements. Traditional compensation arrangements would include, for example, a flat fee agreement or contingency fee agreement or hourly fee agreement;

(6) The professional asserts a lien on the debtor's property;

(7) The debtor owes the professional payment for services rendered prepetition, in which case the notice must state the amount of fees owed and whether the professional has received any preferential payments under 11 U.S.C. § 547(b); or

(8) The Court orders notice for any other reason.

(f) **Applications that will be Routinely Granted or Denied, with the Right to Request a Hearing.** If notice of an application to employ a professional person is not required by subsection (e), and subject to subsection (g), the Court may enter an order approving the employment on an *ex parte* basis. Any party in interest may object to entry of the order, request a hearing, and schedule a hearing to reconsider the issuance of any such order within fourteen days of the order's date.

(g) **Immediate and Irreparable Harm Under Fed. R. Bankr. P. 6003(a).** Nothing in this Local Rule modifies the Fed. R. Bankr. P. 6003(a) prohibition on the issuance of an order granting an employment application during the time specified in Rule 6003(a) absent a determination that relief is necessary to avoid immediate and irreparable harm. If a professional requests entry of an order approving an application prior to the time specified in Fed. R. Bankr. P. 6003(a), the application must set forth a sufficient factual basis to establish immediate and irreparable harm will occur if not granted earlier approval.

Related Authority:
11 U.S.C. §§ 326, 327, 329, 330, and 504
Fed. R. Bankr. P. 2014, 2016, and 6003

Comment:

The phrase "*nunc pro tunc"* in (a)(1) is a Latin phrase that means "now for then" and is intended to describe a request to the court to take an action that applies retroactively to correct an earlier filing.

No requirement exists under the Fed. R. Bankr. P. or the Bankruptcy Code for debtor's attorney to seek approval of employment in a Chapter 7 or 13 case. However, if such attorney seeks compensation as an administrative expense under § 330(a), Mont. LBR 2016-1 applies. *Lamie v. U.S. Trustee*, 540 U.S. 526 (2004) held § 330(a)(1) does not allow compensation to debtors' attorneys from the estate in a Chapter 7 case unless trustee employs them under § 327 with Court approval. Section 329 of the Code applies to debtor's attorney under any chapter of the Code regardless of whether attorney applies for compensation under Fed. R. Bankr. P. 2016.

It should be noted that Fed. R. Bankr. P. 6003 now provides that the Court shall not, within 21 days after the filing of a petition, issue an order granting an application under Fed. R. Bankr. P. 2014, except to the extent that relief is necessary to avoid immediate and irreparable harm. The Court can make the order approving the application retroactively to the date of its filing.

RULE 2014-2. Standard Forms of Attorney Retention Agreements.

(a) **Chapter 7.** All debtor's attorneys in Chapter 7 cases are encouraged to use the standard Attorney Retention Agreement set forth in Mont. LBF 3.

(b) **Chapter 13.** All debtor's attorneys in Chapter 13 cases shall use the standard Attorney Retention Agreement set forth in Mont. LBF 3-A if they wish to have the presumption of reasonableness of their fees as described in Mont. LBR 2016-1(b).

RULE 2015-1. Trustee's Administrative Expenses.

A Chapter 7 trustee may spend up to $1,500.00 for administrative expenses to preserve or protect estate assets and may pay the fees and costs of professionals employed by trustee or postpetition taxes owed by the estate if they do not exceed $1,500.00 in the aggregate per individual or entity, without prior order of the Court, provided preliminary notice is provided to U.S. Trustee. Trustee shall account for such fees and expenditures in trustee's final motion for approval of compensation and expenses.

RULE 2015-2. Monthly Operating and Other Reports to the Court and United States Trustee.

All Chapter 11 debtors in possession (or trustees, if applicable) shall electronically file monthly operating reports with the Court, on such forms and in such manner as designated by U.S. Trustee, on or before the 21st day of each month following the month for which such report pertains. Debtors in possession shall also timely file such other periodic reports and summaries of the operation of debtor's business, including a statement of receipts and disbursements, and such other information as the Court or U.S. Trustee requires.

Related Authority:
11 U.S.C. §§ 704(a)(8), 1106, and 1107
28 U.S.C. § 1930(a)(6)
Fed. R. Bankr. P. 2015(a)

Comment:

Additional reporting and informational requirements are imposed upon debtors in possession in small business cases pursuant to 11 U.S.C. § 1116.

RULE 2016-1. Applications for Compensation of Professionals.

(a) **Applications.** Except for applications for postpetition attorney's fees and costs pursuant to 11 U.S.C. § 506(b), or reimbursement of a petitioning creditor's fees in an involuntary case, all applications for fees and costs of professionals filed pursuant to Fed. R. Bankr. P. 2016 in cases under Chapters 7, 11, 12, 13, or 15 shall conform with Mont. LBF 17. No compensation or reimbursement of expenses shall be paid to a professional, including from a retainer, until allowed by order of the Court under this Local Rule. In all Chapter 13 plans, amended plans, or modified plans, Debtor's counsel, in conformity with Mont. LBF 19, shall estimate the total amount of their attorney fees and costs, reflect any retainer paid, and specify the total amount of attorney fees and costs to be paid through their client's plan.

U.S. Trustee has established "Guidelines for Reviewing Applications for Compensation and

Reimbursement of Expenses Filed under 11 U.S.C. § 330 (Appendix A to 28 C.F.R. §58). Compliance with the project billing format will only be required upon request of a party in interest and will apply only to those fees and costs incurred after such request is made.

Professional fees shall be documented through contemporaneous billing records. Each task shall be itemized separately, identifying the task performed, the amount of time involved, and the fee for each time entry. The Court may deny compensation for tasks that are lumped together in one entry if the cumulative time for those tasks exceeds one hour. Lumping shall be permitted for cumulative tasks which do not exceed one hour. Professionals shall be allowed compensation at the professional's usual hourly rate for reasonable and necessary travel time.

(b) **Presumed Reasonable Fees in Chapter 13.** Absent an objection by a party in interest, fees incurred in a Chapter 13 case in which a plan has been confirmed will be presumed reasonable if debtor's attorney:

(1) uses the standard form of Attorney Retention Agreement set forth in Mont. LBF 3-A;

(2) discloses the terms of compensation pursuant to Fed. R. Bankr. P. 2016(b); and

(3) seeks compensation for professional services that does not exceed $6,000.00 and costs that do not exceed $750.00. An attorney receiving presumptive compensation under this Rule may seek additional fees through an application for allowance of additional compensation and, if necessary, a motion to modify a confirmed plan.

(c) **Special Rules for Chapter 11, 12, and 13 Cases.** Unless otherwise approved by the Court, authorization for any professional to receive postpetition payments from debtor, or from any other sources for the debtor's benefit, must be sought by written application on proper notice and shall be granted only upon a demonstration of reasonableness and necessity. Unless the Court orders otherwise, any approved postpetition retainer or payments to professionals must be deposited into a trust account and remain in such account until the Court enters an order allowing removal. Fees in excess of the retainer held by attorney for a Chapter 12 or 13 debtor must be paid through the Chapter 12 or 13 plan as an administrative expense pursuant to 11 U.S.C. § 503(b)(2).

(d) **Fees in Dismissed Cases.** Within 30 days of dismissal of a case, all professionals shall file with the Court a final Fed. R. Bankr. P. 2016(b) Disclosure of Compensation, reflecting the total amount of all fees and costs that have been or will be charged to their debtor clients for all services performed through the conclusion of the case. The Court shall retain jurisdiction to order the filing of a formal fee application and to hear and rule on the reasonableness and necessity of all professional fees in dismissed cases before the entry of a Final Decree.

(e) **Allowed Expenses.** In addition to a professional's fees and compensation, the following expenses shall be allowed at the actual cost to the professional: postage, long-distance telephone, facsimile charges, computerized legal research, travel-related expenses, and other expenses associated with the professional's representation of the party, provided they are shown to be reasonable and necessary. Photocopy costs shall be presumed reasonable and shall be allowed at

the rate of $.15 per page unless the professional proves a greater actual cost, provided they are shown to be necessary. Mileage shall be presumed reasonable and allowed at the federal rate provided by the regulations of the Internal Revenue Code for travel by private automobile unless the professional proves a greater actual cost, provided such mileage is shown to be necessary.

(f) **Claims for Fees by Creditors.** If a creditor wishes to recover reasonable postpetition fees, postpetition costs, or postpetition charges provided for under the agreement upon which the claim arose as a portion of creditor's allowed claim pursuant to 11 U.S.C. § 506(b), the professionals retained by such creditor must file a fee application in accordance with the standards set forth in 11 U.S.C. § 330 and Fed. R. Bankr. P. 2016(a). Each application shall also individually explain whether each of the following conditions is satisfied:

(1) The claim is an allowed secured claim;

(2) The creditor is over-secured;

(3) The fees are reasonable considering the following factors: the nature, extent, length, and value of the services rendered; the bankruptcy and non-bankruptcy experience, reputation, and ability of the lawyers; awards in similar cases; the novelty and difficulty (or lack thereof) of the questions presented; the skill requisite to perform the legal services properly; the customary fee; professional time actually spent; amount involved in potential risk; results of the cases; specialty in which attorneys may be practicing; fees sought to be applied; and distinction between partner and associates time; costs of comparable services; use (or lack thereof) of paralegals; and duplication of efforts; fees sought in proportion to the claim; and

(4) The fees are provided for under the agreement.

Reasonable fees and expenses of such professionals may be allowed by the Court as a portion of creditor's allowed claim. Prepetition fees, prepetition costs, or prepetition charges incurred before the date the debtor files the bankruptcy petition shall be itemized in creditor's proof of claim. If professional fees and costs do not exceed $900.00 plus the amount of the court filing fee for filing a motion for relief from the automatic stay pursuant to Mont. LBR 4001-1(a), such fees and costs are presumed to be reasonable, and no application will be required.

Related Authority:
11 U.S.C. §§ 330 and 506(b)
Fed. R. Bankr. P. 2016 and 2017

Comment:

In a Chapter 13 case, if the total amount of fees charged by debtor's attorney exceeds the presumed reasonable fee described in subpart (b) of this Local Rule, a formal fee application shall be filed with the Court detailing the total amount of fees and costs charged to debtor. If debtor's counsel anticipates that their total attorney fees may exceed the presumed reasonable fee set forth in subpart (b) of this Local Rule, they should set forth their hourly rate for services rendered beyond the no-look fee in their Fed. R. Bankr. P. 2016 disclosures of compensation (which hourly rate should be the same as set forth in the Montana Chapter 13 Model Retention Agreement, if this is employed by counsel).

All creditors are entitled to request postpetition fees if provided for in the underlying contract. *See Centre Insurance Co. v. SNTL Corp. (In re SNTL Corp.)*, 2009 WL 1758759 (9th Cir. 2009). The Local Rule allowing fees and expenses to a creditor only applies if such creditor seeks reasonable fees and expenses as a portion of creditor's allowed claim. The Court has no interest in reviewing the fee arrangement or the fees and expenses incurred between creditor and the professional if creditor is paying such fees and expenses and is not seeking such fees and expenses as a portion of creditor's allowed claim. Pursuant to Fed. R. Bankr. P. 2002(a)(6), and Mont. LBR 2002-4, if the amount of fees and costs exceed $1,000, then debtor and all parties in interest requesting special notice must be served with the notice of application for professional fees and costs (by using Mont. LBF 18).

The factors identified above were derived from *In the Matter of Lehua Hoopai*, 581 F.3d 1090, 1098 (9th Cir. 2009) and *In re Olson*, 2020 Mont. B.R. 137, 147 (Bankr. D. Mont. 2020).

RULE 2016-2. Attorney Fees Paid Through Chapter 13 Plans.

Except for prepetition retainers, all debtor's attorney's fees and costs shall be paid through the Chapter 13 Plan unless otherwise ordered. Debtor's attorney may not receive the payment of fees or the reimbursement of expenses directly from debtor or another party on behalf of debtor, other than the prepetition retainer, without Court authorization. Court authorization shall also be required in all Chapter 13 cases that are dismissed or converted to another chapter, either before or after plan confirmation, when the total fees and costs exceed those presumed to be reasonable under Mont. LBR 2016-1(b). (*See also* Mont. LBR 2016-1(d) regarding dismissed Chapter 13 cases).

RULE 2090-1. Admission to Practice before the Bankruptcy Court.

(a) **Admission of Attorneys.** Admission to the Bar of this Court is limited to attorneys of good moral character who are active members in good standing of the State Bar of Montana. Except as provided herein, the Local Rules of Procedure of the U.S. District Court for the District of Montana, as amended, shall govern the admission of attorneys to practice before the U.S. Bankruptcy Court for the District of Montana.

(b) Attorneys for the United States. An attorney who is not eligible for admission under Mont. LBR 2090-1(a) but who is a member in good standing of and eligible to practice before the Bar of any United States Court or of the highest court of any state or of any territory or insular possession of the United States, and who is of good moral character, may practice in this Court in any matter in which that attorney is employed or retained by the United States or its agencies and is representing the United States or any of its officers. Attorneys permitted to practice in this Court are subject to the jurisdiction of the Court with respect to their conduct to the same extent as members of the Bar of this Court.

(c) **Admission by pro hac vice.** An attorney not eligible for admission under Mont. LBR 2090-1(a) but who is a member in good standing of and eligible to practice before the Bar of any United States Court or of the highest court of any state or of any territory or insular possession of the United States, who is of good moral character, and who has been retained to appear in this Court,

may, upon written application to and in the discretion of the Court, be permitted to appear and participate in a particular case or adversary proceeding. Application shall be in accordance with the U.S. District Court for the District of Montana Local Rules of Procedure ("L.R.") 83.1(d).

(d) **Local Attorney.** The requirement to associate a local attorney admitted to practice before the U.S. Bankruptcy Court for the District of Montana as set forth in L.R. 83.1(d)(3) may, on motion, be waived by the Court on a case-by-case basis. If such association is not waived, the local attorney shall be served with copies of all pleadings, shall attend all hearings or trials, shall be continually informed by attorney admitted by *pro hac vice* of the current status of all negotiations and matters occurring in the case or proceeding, and shall have the local attorney's name, address, telephone and facsimile numbers, and email address on all pleadings.

(e) **Fee.** The nonrefundable fee established for *pro hac vice* admission by the U.S. District Court for the District of Montana shall be paid to the Bankruptcy Court at the time the application is filed.

(f) **Revocation.** The Court may revoke *pro hac vice* admission for cause without a hearing.

Comment:

Admission pro hac vice is limited to the case or adversary proceeding in which the application is filed. If a pro hac vice applicant wishes to appear in both a bankruptcy case and any associated adversary proceeding, the applicant must file applications in the bankruptcy case and in any associated adversary proceeding(s) in which the applicant wishes to appear.

Rule 2090-2. Self-Represented Litigants.

(a) **Individual Representation.** Any self-represented litigant must appear personally and may not delegate that duty to any other person who is not a member of the Bar of this Court. A *self-represented litigant* is bound by the Federal Rules and all applicable Local Rules. Sanctions, including but not limited to entry of default judgment or dismissal with prejudice, may be imposed for failure to comply with Local Rules.

(b) **Representation of a Corporate Entity.** Any entity other than an individual, including but not limited to a corporation, an unincorporated association, a partnership, a limited liability company, or a union, may only appear through an attorney.

(c) **Agreement with Clerk's Office.**

(1) The self-represented litigant shall request to receive court notices and orders and file documents via email by completing the form available at: https://www.mtb.uscourts.gov/debtor-electronic-bankruptcy-noticing-debn and sending the request to the clerk's office at mtb_ca@mtb.uscourts.gov.

(2) Subject to the Clerk's review of the submitted form, a self-represented litigant may file

documents via email. The Clerk may add terms and conditions other than those in this Local Rule and may revoke permission to file documents via email at any time.

(1) Under the agreement:

(A) the self-represented litigant must:
(i) sign all filings by hand;
(ii) attach a certificate of service to each document emailed to the Clerk for filing, listing email to the Clerk as the means of service and citing the agreement; and
(iii) all filings submitted by the self-represented litigant shall be emailed to the Clerk at mtb_ca@mtb.uscourts.gov, and shall reference the case name and number in the subject line.

(B) the self-represented litigant need not serve trustee or U.S. Trustee with documents emailed to the Clerk for filing because trustee and U.S. Trustee will receive service via ECF when the Clerk files the document. The self-represented litigant is required to serve all other parties in interest by first class mail, postage prepaid; and

(C) the self-represented litigant will receive email service of all orders and documents other parties file in ECF. It is the self-represented litigant's responsibility to update its email address and agreement with the clerk's office. The clerk's office will not monitor email messages that are not delivered to self-represented litigants.

(d) **Agreement with Parties.** Instead of or in addition to an agreement under subsection (c), a self-represented litigant and one or more other parties may agree to receive and/or effect service by means other than ECF, pursuant to Fed. R. of Bankr. P. 9036. Any such agreement must be in writing, signed by each party, and filed in the case.

RULE 2090-3. Notice of Change of Status.

An attorney who is a member of the Bar of this Court or has been permitted to practice in this Court under Mont. LBR 2090-1 shall promptly notify the Court of any change in attorney's status in another jurisdiction, or any occurrence that would change any information provided by attorney in an application to appear *pro hac vice*, which may make attorney ineligible for membership in the Bar of this Court or ineligible to practice in this Court.

RULE 2090-4. Attorney Discipline, Suspension, and Disbarment.

This Court shall enforce the disciplinary rules set forth in L.R. 83.2 when circumstances warrant discipline in this Court. The reference to "Chief Judge" in the Local Rules of Procedure of the U.S. District Court for the District of Montana, as incorporated in the Local Rules, shall mean the Chief

Bankruptcy Judge or other bankruptcy judge designated by the Chief Bankruptcy Judge.

Comment:

According to *Price v. Lehtinen (In re Lehtinen)*, 2009 WL 1119530 (9th Cir. 2009), a bankruptcy court has the inherent power to disbar or suspend an attorney from practice, provided appropriate due process is afforded.

RULE 2090-5. Temporary Co-Counsel and Attorney Withdrawal.

(a) Withdrawal or Substitution of Attorney for Debtor. A debtor's attorney may withdraw from any case or proceeding, provided either:

(1) a motion with notice filed in compliance with Mont. LBR 9013-1 is served on both debtor and on any opposing attorney, allowing the debtor or opposing attorney to file a response and request a hearing; or

(2) a consent to withdrawal is signed by attorney and debtor, and filed with the Court, where debtor, if an individual, specifies that debtor at the specified address and phone number will appear on debtor's own behalf, or an appearance with consent by a newly retained attorney is filed, or debtor, if a legal entity, specifies the name, address, phone, facsimile number, and email address of the newly retained and substituting attorney.

If no response and request for a hearing is filed within the 14-day period provided by Mont. LBR 9013-1 in subparagraph (1) above, the Court may either routinely grant the motion without a hearing or may set the motion for a hearing.

If, with the consent to withdrawal, the newly retained and substituting attorney files an appearance identifying the name, address, phone, and facsimile number, and email address of the substituting attorney, no hearing is necessary and approval by the Court will be routinely granted. Attorneys commencing employment in the case as newly retained and substituting attorneys for debtor shall file a statement pursuant to Fed. R. Bankr. P. 2016(b) and otherwise fully comply with Mont. LBR 2016-1 and these Local Rules.

(b) **Withdrawal or Substitution of Other Attorneys.** Notice of withdrawal or substitution of attorneys other than debtor's attorney shall be deemed effective upon filing with the Clerk and shall be served upon all parties to the proceeding, the trustee, and U.S. Trustee.

(c) **Temporary Co-Counsel at Meeting of Creditors or Court Hearings.** If it becomes necessary for a temporary co-counsel to appear on debtor's behalf at a meeting of creditors held pursuant to 11 U.S.C. § 341(a), or in a hearing before the Court, such counsel shall file a statement required by Fed. R. Bankr. P. 2016(b), outlining the compensation that the debtor will pay counsel, if any, and the nature and limitations of any legal services to be provided by the temporary counsel. This statement shall be filed before the commencement of any legal services and shall be served on

debtor, trustee, and U.S. Trustee. At the conclusion of the temporary counsel's services on behalf of debtors, counsel shall file a notice terminating the counsel's representation. Such withdrawal as temporary counsel shall be effective immediately upon filing without further notice, hearing, or order.

(d) **Notice for Removal from Service.** An attorney no longer wishing to receive notices in a case or proceeding may file a notice requesting that such attorney's name be removed from any service list utilized in CM/ECF or in any certificate of service.

(e) **Self-Represented Litigants.** If a party without an attorney fails to appear and respond in the case or proceeding after an attorney has withdrawn, defaults and other prejudicial decisions may be entered against such party.

Related Authority:
11 U.S.C. §§ 329 and 504
Fed. R. Bankr. P. 2014 and 2016

Comment:

Any attorney agreeing to act as temporary counsel for debtor to attend a creditors' meeting or court hearing on behalf of such debtor must file a declaration of fees pursuant to Fed. R. Bankr. P. 2016(b) that notifies the Court and others a fee has been paid to such counsel by debtor (or that a fee will not be paid, if such is the case), and specifies the amount of such fee, if any, and the nature of and any limitations on the legal services to be provided by such temporary counsel. 11 U.S.C. § 504 prohibits any fee sharing between attorneys who are not members of the same firm, so any fee paid to a temporary co-counsel must be paid directly by debtors. Co-counsel appearing under these circumstances should carefully consider the ethical issues that are attendant upon appearing as co-counsel, as well as the disclosures which should be made by debtor's regular counsel about the use of temporary co-counsel for purposes of appearing with debtor at the meeting of creditors pursuant to 11U.S.C. § 341(a).

RULE 2090-6 Communications with the Court and Ex Parte Motions and Applications. *(deleted December 2025)*

RULE 2091-1. Student Practice Rule.

(a) **Purpose.** This Court and the Bar are responsible for providing competent legal services. This Local Rule is adopted to assist practicing attorneys in providing legal services and to encourage law schools to provide clinical instruction in diverse trial work.

(b) **Activities.**

(1) An eligible law student may appear in this Court on behalf of any person in any case or adversary proceeding if:

(A) the person on whose behalf the student is appearing has consented in writing to the appearance, and the supervising attorney has approved the appearance

in writing; and

(B) the supervising attorney is personally present throughout the case or proceeding and is fully responsible for the manner in which the case or proceeding is conducted.

(2) In each case, the written consent and approval referred to above shall be filed in the record of the case or proceeding and shall be brought to the attention of the Court.

(c) **Requirements and Limitations.** To proceed under this Local Rule, the law student must:

(1) be duly enrolled in a law school approved by the American Bar Association;

(2) have completed legal studies amounting to at least two-thirds of the total credit hours required for graduation;

(3) be certified by the Dean or designate of the student's law school as being of good moral character and competent legal ability and as being adequately trained to perform as a legal intern;

(4) be introduced to the Court by a member of the Bar of this Court;

(5) neither ask for nor receive any compensation or remuneration of any kind from the person on whose behalf the student renders services; but this shall not prevent an attorney employer, law school, or governmental agency from paying compensation to the eligible law student, nor shall it prevent any of the foregoing from making such charges for its services as it may otherwise properly require; and

(6) certify in writing that the student has read and is familiar with and will abide by the American Bar Association's Model Rules of Professional Conduct and the Montana Rules of Professional Conduct.

(d) **Certification.** The certification of a student by the Law School Dean or designate:

(1) shall be filed with the Clerk of Court, and, unless it is sooner withdrawn, shall remain in effect for twelve months after it is filed or until the student's admission to any bar, whichever occurs first. Under exceptional circumstances, the Dean or designate may renew the certification for one more twelve-month period. Law school graduates are eligible to practice under this Local Rule until the results of the first bar examination after their certification under this Local Rule are announced;

(2) may be withdrawn by the Dean or designate at any time by mailing a notice to that effect to the Clerk of Court, who shall forthwith mail copies thereof to the student and the supervising attorney; and

(3) may be terminated by this Court at any time without notice or a hearing and without showing cause.

(e) **Supervision.** The attorney under whose supervision an eligible law student participates in any of the activities permitted by this Local Rule shall:

(1) be an active member in good standing of the Bar of this Court;

(2) assume personal and professional responsibility for the student's guidance in any work undertaken and for supervising the quality of the student's work; and

(3) assist and counsel the law student in the activities mentioned in these Local Rules and review the activities with the student to ensure the student's proper practical training and the client's protection.

(f) **Self-Represented Litigant.** Nothing contained in this Local Rule shall affect the right of any person who is not admitted to practice law to do anything that person might lawfully have done before the adoption of this Local Rule.

PART III

RULE 3001-1. Reserved.

RULE 3001-2. Attachments to Proof of Claim.

A proof of claim shall include those documents required by Fed. R. Bankr. P. 3001(c) and (d), and an itemized summary of the claim amount showing, as of the date of the commencement of debtor's bankruptcy case, the unpaid principal balance, all accrued interest, late charges, and any other charges or amounts that are included in creditor's calculation of the claim amount including the rate of contract or other interest and the per diem interest accrual as of the date of the commencement of the case.

RULE 3002-1. Late Filed Claims in Chapter 12 and 13 Cases.

Late filed proofs of claim in Chapter 12 or 13 cases shall be deemed disallowed without the need for trustee's formal objection or a hearing if trustee sends a notice of the late filing to creditor using Mont. LBF 21. If a creditor files a response and requests a hearing within 30 days of the notice date, creditor shall notice the contested matter for a hearing pursuant to Mont. LBR 9013-1, except that such notice shall provide that the hearing on the notice shall be scheduled at least 21 days after the date of creditor's response and request for a hearing. If creditor fails to file a written response to the notice within 30 days of the notice date, the failure to respond shall be deemed an admission that the proof of claim was filed late and shall be disallowed by the Court without further notice

or a hearing. Trustee shall not pay on a claim filed after the claims bar deadlines described in Fed. R. Bankr. P. 3002(c) or 3004 without a Court order obtained by the claimant allowing such claim.

Related Authority:
11 U.S.C. § 502(b)(9)
Fed. R. Bankr. P. 3002, 3004, and 3007

RULE 3003-1. Proofs of Claim and Interest in Chapter 9 and 11 Cases.

~~**(a) Time to file. Pursuant to Fed. R. Bankr. P. 3003(c)(3) and except as provided in subdivision (b) of this Local Rule, the last day to file proofs of claim in a Chapter 11 case shall be 90 days from the first date set for the meeting of creditors pursuant to 11 U.S.C. § 341(a). A governmental unit shall file a claim before 180 days after the date of the order for relief except as otherwise provided in the Federal Rules of Bankruptcy Procedure. The Clerk shall notify all creditors and parties in interest of such bar date.**~~

~~**(b) Extension. The Court may, for cause shown, extend the deadline upon motion, notice, and hearing. If the notice for the meeting of creditors pursuant to 11 U.S.C. § 341(a) has been sent by the cls office to creditors, the notification to creditors of an extension of the deadline to file claims will be the responsibility of debtor in possession and its counsel.**~~

~~**(c) Proof of Claim filing deadline in a Subchapter V, Chapter 11 Case. The last day to file proofs of claim in a small business, subchapter V, chapter 11 case shall be seventy (70) days after the date of the order for relief. A claim of a governmental unit shall be filed no later than one hundred eighty (180) days after the date of the order for relief, except as otherwise provided in the Federal Rules of Bankruptcy Procedure. The clerk shall notify all creditors and parties in interest of such bar date.**~~**(a) Chapter 9 and Chapter 11.** The deadline for filing proofs of claim in a Chapter 9 or Chapter 11 case, excluding those Chapter 11 cases filed as small business debtors under Subchapter V, is 90 days from the date of the order for relief unless otherwise extended for cause.

(b) Chapter 11 Subchapter V Small Business Debtor. The deadline for filing proofs of claim in a Chapter 11 case filed as a small business debtor under Subchapter V is 70 days from the date of the order for relief unless otherwise extended for cause.

(c) Governmental Units. The deadlines set forth in subsections (a) and (b) above do not apply to governmental units filing proofs of claim, whose claims remain due 180 days from the order for relief as governed by 11 U.S.C. § 502(b)(9)(A) unless otherwise extended for cause.

Related Authority:
Fed. R. Bankr. P. 2002, 3002, and 3003

RULE 3007-1. Objections to Proofs of Claim.

Except as provided in Mont. LBR 3002-1 for late filed claims in Chapter 12 or 13 cases, trustee, debtor, or other party in interest may file an objection to a creditor's proof of claim in accordance with Fed. R. Bankr. P. 3007 and by using Mont. LBF 28. The Court will summarily grant objections to duplicate claims without notice or a hearing.

Related Authority:
11 U.S.C. §§ 102(1)(B)(i)
Fed. R. Bankr. P. 3007, and 9007

Comment:

Creditor, at the address noted on the filed proof of claim, and trustee are the only parties that must be served with the objection. If a federally insured depository institution is involved, the service must be sent by certified mail to the officer of the institution unless the institution has appeared through an attorney, the Court orders otherwise after initial certified service, or the institution waives in writing the certified mail requirement by designating an officer to receive service.

RULE 3011-1. Unclaimed Funds.

A party seeking disbursement of unclaimed funds deposited with the Clerk must file an application substantially conforming to the Official Form 1340 and a certificate of service. Upon entry of an Order granting an Application for Unclaimed Funds, the clerk's office shall wait 14 days to make the associated disbursement.

RULE 3012-1. Valuation of Allowed Secured Claims in Chapter 11, 12, or 13.

A motion for valuation of security shall be filed in conformance with LBF 22.

RULE 3014-1. Election under § 1111(b) by Secured Creditor in a Subchapter V, Chapter 11 Case.

In all small business, subchapter V, Chapter 11 cases, an election of application of 11 U.S.C. § 1111(b)(2) by a member of class of secured creditors shall be made no later than 14 days following the filing of debtor's initial plan of reorganization under 11 U.S.C. § 1189, or within such other time as the court may fix.

RULE 3015-1. Objections to Confirmation or Modification of Chapter 12 or 13 Plans.

If trustee has no objection to confirmation of a Chapter 12 or 13 plan or modification to a confirmed plan, trustee shall file a report with the Court, serving a copy on debtor, recommending plan confirmation or approval of any modification to a confirmed plan. The Court may grant plan confirmation or approval of any modification to a confirmed plan without notice or a hearing if no timely objections are filed. The Clerk shall include the date that objections to plan confirmation are due in the Notice of Chapter 13 Bankruptcy Case and Meeting of Creditors. Debtor's attorney shall provide notice for objections to motions to modify confirmed plans in accordance with Fed. R. Bankr. P. 3015(h) unless trustee is proposing a modification and then trustee will provide notice for objections.

Related Authority:
11 U.S.C. §§ 1223, 1224, 1225, 1229, 1323, 1324, 1325, and 1329
Fed. R. Bankr. P. 3015(f) and (h)

RULE 3015-2. Amendment of Plans.

(a) **Notice of Intent to Amend Plan.** If timely objections have been made before the Chapter 12 or 13 confirmation hearing, debtor may file a notice in conformity with Mont. LBF 41. Following the filing of a notice, the hearing on confirmation shall be continued to allow debtor to file an amended plan unless otherwise ordered by the Court. Debtor shall file the notice at least three business days before the scheduled hearing on confirmation. Before filing the notice, debtor shall contact trustee and advise them of their intent to file an amended plan. Unless otherwise ordered by the Court, all amended plans shall be filed no later than 14 days before the Court's next regularly scheduled hearing date in the division in which debtor's case is pending, which shall also be the date set for the hearing on confirmation of debtor's amended plan. Any objections to debtor's amended plan shall be filed no later than seven days before the hearing on confirmation of debtor's amended plan.

(b) **Plan Modification.** After confirmation of a plan, the proponent of a modified Chapter 13 plan shall file a motion to modify plan using Mont. LBF 19-A and serve a copy of the motion and plan on debtor and trustee, their respective attorneys, U.S. Trustee, creditors having timely filed proofs of claim, and entities explicitly requesting copies of all notices, and confirm such service has been accomplished by filing a certificate of service.

Related Authority:
11 U.S.C. §§ 1223, 1229, 1323, and 1329
Fed. R. Bankr. P. 3015(h)

RULE 3017-1. Objections to Chapter 11 Disclosure Statements and Plans.

Unless otherwise ordered by the Court, objections to the disclosure statement or plan in a Chapter 11 case shall be filed and served not less than 14 days before the hearing on such statement or plan.

Service of the objection shall be made on any party in interest requesting notice. The Clerk shall include the date objections are due in the notice of the hearing on the disclosure statement or plan.

RULE 3017-2. Amendments to Subchapter V Plans Before Confirmation Hearing to Address Plan Objections.

If timely objections have been made before the confirmation hearing in a Chapter 11, Subchapter V case, debtor may file a notice in conformity with Mont. LBF 41. Following the filing of a notice, the hearing on confirmation shall be continued to allow debtor to file an amended plan unless otherwise ordered by the Court. Debtor shall file the notice at least three business days before the scheduled hearing on confirmation. Before filing the notice, debtor shall contact trustee and advise them of their intent to file an amended plan. Unless otherwise ordered by the Court, all amended plans shall be filed no later than 14 days before the Court's next regularly scheduled hearing date in the division in which debtor's case is pending, which shall also be the date set for the hearing on confirmation of debtor's amended plan. Any objections to debtor's amended plan shall be filed no later than seven days before the hearing on confirmation of debtor's amended plan.

RULE 3017-3. Report of Administrative Expenses in Chapter 11 Cases.

The proponent of a plan of reorganization in a Chapter 11 case shall file an estimate of administrative expenses not less than seven days before the date fixed for the hearing on confirmation of the plan. Such administrative expenses shall include, but are not limited to, debtor's attorney fees, accountant's fees, any other professional fees, and the fees owing to the Clerk of Court and U.S. Trustee.

RULE 3018-1. Chapter 11 Ballots-Voting on Plans.

All ballots provided for voting on a proposed Chapter 11 plan shall conform substantially to Official Form 314 and indicate the return address of the plan proponent. All ballots cast regarding a proposed Chapter 11 plan shall be returned to the plan proponent. Not less than three days before the hearing on confirmation, the plan proponent shall file the ballots and a written summary of the ballots cast and serve a copy of the summary on debtor, U.S. Trustee, any committee or its agents that are appointed pursuant to the Bankruptcy Code, and any party that has filed an objection to confirmation or has requested notice. The summary shall contain a separate listing of acceptances and rejections and include the following information for each class of creditors:

(a) The name of each creditor filing an acceptance or rejection, the dollar amount of each claim, and whether debtor objects to such claim;

(b) The total dollar amount and number of all allowed claims voted;

(c) The percentage of acceptances with respect to the total dollar amount of all claims; and

(d) The percentage of acceptances with respect to the total number of claims.

RULE 3020-1. Quarterly Fees in Chapter 11 Cases.

Pursuant to 11 U.S.C. § 1129(a)(12), the Court shall not confirm a Chapter 11 plan unless U.S. Trustee notifies the Court by filing Mont. LBF 12 that all fees required by 28 U.S.C. § 1930 have been paid or will be paid on or before the plan's effective date.

Related Authority:
11 U.S.C. § 1112(b)(4)(K)
28 U.S.C. § 1930(a)(6)
Fed. R. Bankr. P. 2015(a)(5)

RULE 3022-1. Chapter 11 Case Closings.

(a) Chapter 11, Subchapter V Proceedings

(1) **Confirmation under 11 U.S.C. § 1191(a).** Unless extended by the Court, the debtor shall file a motion in conformity with Mont. LBF 13 within (i) 60 days of entry of the Order of Confirmation of the plan or (ii) 60 days of the resolution of all motions, contested matters, and adversary proceedings, whichever is later, unless such 60-day period is extended by the Court. The motion shall be served on all creditors, the trustee, the United States trustee, and all parties in interest and shall function as the "notice of substantial consummation" required by 11 U.S.C. § 1183(c). The Court may immediately grant the motion as provided in Mont. LBR 9013-1(i)(2)(V).

(2) **Confirmation under 11 U.S.C. § 1191(b).** The party responsible for making plan payments under a plan confirmed pursuant to 11 U.S.C. § 1191(b) shall file a notice with the Court upon completion of all required plan payments. The notice shall include a description of the total amount of payments made to each creditor under the plan. Unless extended by the Court, the debtor shall file a motion in conformity with Mont. LBF 13 within (i) 60 days of entry of discharge or (ii) 60 days of the resolution of all motions, contested matters, and adversary proceedings, whichever is later. The motion shall be served on all creditors, the trustee, the United States trustee, and all parties in interest and the Court may immediately grant the motion as provided in Mont. LBR 9013-1(i)(2)(V).

(b) Chapter 11, Non-Subchapter V Proceedings

(1) Non-Individual Debtors. Unless extended by the Court, the debtor shall file a motion in conformity with Mont. LBF 13 within (i) 60 days of the Effective Date

of the plan or (ii) 60 days of the resolution of all motions, contested matters, and adversary proceedings, whichever is later. The motion shall be served on all creditors, the trustee, the United States trustee, and all parties in interest and the Court may immediately grant the motion as provided in Mont. LBR 9013-1(i)(2)(V).

(2) Individual Debtors

(A) **Closing.** After the entry of the Order of Confirmation of the plan and the disposition of all pending contested matters, individual debtors may file a motion to close the Chapter 11 case.

(B) **Reopening the Case for the Purpose of Obtaining Discharge and a Final Decree.** The debtor may move to reopen the case for the purpose of obtaining a discharge and pay the associated fee (https://www.mtb.uscourts.gov/court-info/local-rules-and-orders) and move for entry of a final decree after the completion of all payments under the plan, or for the purpose of seeking a hardship discharge. Once the case has been reopened, the debtor may request entry of a discharge via a motion that shall include a description of the total amount of payments made to each creditor under the plan. All creditors, parties in interest, and the United States trustee shall be provided at least fourteen (14) days' notice and the opportunity to object to such a motion for discharge.

Unless extended by the Court, the debtor shall file a motion in conformity with Mont. LBF 13 within 60 days of entry of discharge. The motion shall be served on all creditors, the trustee, the United States trustee, and all parties in interest and the Court may immediately grant the motion as provided in Mont. LBR 9013-1(i)(2)(V).

(C) **Effect of Final Decree on Court's Right to Enforce and Interpret its Orders.** A final decree closing a case after the estate is fully administered does not affect the right of the court to enforce or interpret its own orders.

(D) **Failure of a Debtor to File Motion for Final Decree.** In the event a debtor does not file a Motion for Final Decree in a Chapter 11 Case as required by this Local Bankruptcy Rule, nothing herein is intended to prevent a party in interest or the Court from moving for the entry of a final decree closing a case after an estate is fully administered in a Chapter 11 reorganization case, consistent with Fed. R. Bankr. P. 3022. Any such motion shall be served on the debtor in addition to the trustee, United States trustee, and all parties in interest.

Related Authority:
11 U.S.C. §§ 350(a) and 1141(d)(5)
Fed. R. Bankr. P. 3022

Comment:

Section 28 U.S.C. § 1930(a)(6) was amended on January 27, 1996, to provide that quarterly fees due to U.S. Trustee in a Chapter 11 case are payable after confirmation of a plan until the case is closed by the Court, and interest accrues on delinquent quarterly fees until paid.

PART IV

RULE 4001-1. Motions to Modify Stay.

(a) **Motion.** A motion to modify stay under 11 U.S.C. § 362 shall be made in conformity with Mont. LBF 8. Consents to the motion shall conform to Mont. LBF 9 and 9-A. Copies or excerpts of security documents and proof of perfection do not need to be attached to a motion to modify stay if a proof of claim has been filed on or before the motion to modify stay. Instead, copies or excerpts of security documents and proof of perfection should be attached to the proof of claim filed on or before the motion to modify stay, and reference to such proof of claim shall be made in the motion to modify stay. Evidence of proof of the moving party's standing to file the motion shall be attached to the motion to modify stay. To avoid the need for a preliminary telephonic hearing, a creditor may, in its motion to modify stay, consent to a waiver of the 30-day rule outlined in 11 U.S.C. § 362(e).

(b) **Impact of Postpetition Invoicing on Content of Motion and Specificity Required in Both Motion and Response to Motion.**

(1) **Relief on the Basis of Payment Default**. A secured creditor seeking relief from the automatic stay based upon allegations of a postpetition payment default by debtor shall state that it seeks relief based on debtor's payment default and articulate with specificity the payment amounts and dates of debtor's alleged default, and attest that it responded promptly and thoroughly to trustee or debtor's reasonable requests for account information. In the event the secured creditor has not provided debtor with the account information required by this Local Rule, the Court may deny the secured creditor's request for recovery of attorney's fees or costs in connection with the motion, regardless of the agreement terms with debtor; and the Court may order the secured creditor to pay debtor's reasonable attorney's fees, if any, for responding to the motion.

(2) **Debtor Opposing Relief from the Automatic Stay.** Debtor opposing relief from the automatic stay in connection with a debt within the scope of this Local Rule shall state with specificity which allegation it disputes in creditor's motion and must append to the response either debtor's affidavit or copies of records showing proof of payment on the account, and articulate debtor's legal and factual basis for asserting that creditor is not entitled to relief from stay. Debtor's failure to meet

these requirements may constitute cause for the Court to deny debtor's request for additional time and/or for the Court to consider the motion unopposed.

(3) **Creditor's Duty to Provide Documentation to Objecting Chapter 13 Debtor.** When a Chapter 13 debtor's objection to a motion for relief from stay contests, with specificity, either the payment default or creditor's application of payments, creditor shall immediately transmit debtor's payment history and a detailed accounting of how debtor's payments were applied to the outstanding obligation to debtor's counsel (or to debtor directly, if not represented by counsel), by electronic or facsimile means, to ensure that debtor has a reasonable opportunity to review this data before the hearing on the motion for relief from stay.

(c) **Response and Hearing.** If debtor, trustee, or party in interest files a response, then a hearing shall be noticed pursuant to Mont. LBR 9013-1(f). In the event such scheduled hearing date is 30 days beyond the date of the motion to modify stay, then a preliminary hearing within such 30-day period will be scheduled by the responding party after such party contacts the Clerk of Court to confirm the preliminary telephone hearing date and time, which shall be outlined in the response. The response and request for a hearing must include the legal and factual basis for the objection and, as appropriate, the following:

(1) If valuation of property is an issue, the estimation of value asserted by the respondent.

(2) If the existence, validity, or any other aspect of the notes or security documents is an issue, such objections must be stated with particularity.

(3) If debtor proposes to offer adequate protection, it must state with specificity the adequate protection offered to be provided (e.g., periodic payments, substitute liens, or other indubitable equivalents).

(4) If debtor asserts that debtor has made or attempted to make all delinquent payments to the moving creditor, but creditor has refused to accept such payments, debtor shall state this fact with specificity, state the dates of such payments, and provide a copy of the check or checks debtor alleges were sent to but refused by the moving creditor.

(5) If the moving creditor has requested waiver of the 14-day stay provided for in Fed. R. Bankr. P. 4001(a)(3), debtor shall state any objection it may have to the Court's order becoming effective immediately.

(d) **Stipulation to Modify Stay.** A stipulation to modify stay, filed in compliance with Mont. LBF 8-B, joined by creditor, debtor, and trustee, if any, may be filed without fee, together with a proposed order, and an order shall be promptly issued without a hearing. A creditor negotiating and filing such a stipulation is not required to retain an attorney. A form of a proposed order in compliance with Mont. LBF 8-C shall accompany any stipulation to modify stay.

Related Authority:
11 U.S.C. § 362, 1201, and 1301

Comment:

In a Chapter 7, 12, or 13 case, a motion to modify stay should be served upon debtor, debtor's attorney, trustee, if any, U.S. Trustee, and any entity requesting special notice. In a Chapter 9 or 11 case, a motion to modify stay should be served upon all of the above entities and any committee appointed under the Code or its authorized agent, or if no committee has been appointed, creditors listed under Fed. R. Bankr. P. 1007(d). A stipulation to modify stay only needs to be served upon the parties signing the stipulation. Debtor's and trustee's consents to modify only need to be filed and not served upon any other entity. Note that pursuant to Fed. R. Bankr. P. 7004(b)(9), 7004(g) and 9014(b), all motions directed to debtor, in addition to being served upon debtor's counsel, must be served upon debtor by mailing a copy of the motion to debtor at the address shown in the petition or to such other address as debtor may designate in a filed writing. Such service by mail can be accomplished pursuant to Fed. R. Bankr. P. 9001(8), but debtor must be served as well as its counsel. Proof of service upon debtor is required. It is incumbent upon creditor moving for stay relief to attach evidence of its standing to file the motion, such as an assignment from the original note holder. Too often, the mortgage and note are in the name of one party while the moving party is a different party, and nothing appears within the motion connecting the two.

RULE 4001-2. Orders Granting Modification of Stay.

If at any time during the pendency of a Chapter 13 case an order modifying the stay is entered, no distributions will be made under the Chapter 13 plan to creditor obtaining modification of the stay until creditor files an amended proof of claim, or either creditor or debtor moves for or stipulates to specific modification from the Court.

RULE 4001-3. Scope and Content of Account Information and Statements Secured Creditors May Provide to Debtors Postpetition.

(a) **Scope and Purpose.** The purpose of this Local Rule is to allow the routine flow of information to continue postpetition from secured creditor to debtor concerning secured loans, in each bankruptcy case where debtor retains possession of the collateral and continues to make regular installment payments directly to secured creditor; and to direct that secured creditor provide debtor with a contact point so that debtor can obtain specific information on the status of its loan, as needed.

It is also the purpose of this Local Rule to make clear that, as long as creditor complies with this Local Rule in furnishing account information to debtor, such good faith attempts at compliance will not expose secured creditor to claims of violating the automatic stay.

This Local Rule applies in a Chapter 7, 12, and 13; applies only to consumer loan relationships; and applies as long as debtor is in bankruptcy and protected by the automatic stay. However, for cause shown and after proper notice and a hearing, the Court may direct parties to comply with this Local Rule when concerned with commercial loans or Chapter 11.

(b) **Debts Secured by a Mortgage on Real Property.**

(1) For this subpart, the term "Mortgage Creditor" may include any creditor with a claim secured by a mortgage on real property.

(2) Except as provided in paragraph (3) below, Mortgage Creditor may provide monthly statements to a Chapter 12 and Chapter 13 debtor who has indicated an intent to retain Mortgage Creditor's collateral in its plan, and to a Chapter 7 debtor who has indicated an intent to retain the Mortgage Creditor's collateral in its statement of intention that has been served on the Mortgage Creditor. Monthly statements shall contain at least the following information concerning postpetition mortgage payments to be made directly to the mortgagee ("outside the plan"):

(A) the date of the statement and the date the next payment is due;

(B) the amount of the current monthly payment;

(C) the portion of the payment attributable to escrow, if any;

(D) the postpetition amount past due, if any, and from what date;

(E) any outstanding postpetition late charges;

(F) the amount and date of receipt of all payments received since the date of the last statement;

(G) a telephone number and contact information that debtor or debtor's attorney may use to obtain reasonably prompt information regarding the loan and recent transactions; and

(H) the proper payment address.

(3) No monthly statement shall be required in a Chapter 12 or Chapter 13 where postpetition mortgage payments are to be made to trustee ("through the plan"). If Mortgage Creditor sends a monthly statement to debtor in such a case that complies with subsection (d)(2) below, Mortgage Creditor is entitled to the protections of subsection (d)(2).

(4) Mortgage Creditor shall provide any of the following information to debtor upon the reasonable written request of debtor:

(A) the principal balance of the loan;

(B) the original maturity date;

(C) the current interest rate;

(D) the current escrow balance, if any;

(E) the interest paid year to date;

(F) the property taxes paid year to date, if any; and/or

(G) any other amounts due, including charges paid by lender for taxes, insurance, attorney's fees, other expense, the nature of the expense, and the date of the payment.

(c) **Other Secured Debts.** For this subpart, the term "creditor" shall include any creditor holding a claim secured by personal property and lessors for assumed leases for personal property, for which monthly statements are provided under non-bankruptcy law or practice. For all debts secured by property, other than as provided by for subpart (b)(2) above, and for assumed leases for personal property, creditor shall provide monthly statements to debtors in the following manner:

(1) If the case was filed under Chapter 12 or 13 and the secured debt is paid entirely through the plan, creditor is not obligated to directly send debtor a monthly statement. However, if creditor or lessor sends debtor a monthly statement that complies with this Local Rule, then creditor shall be entitled to the protection described in subsection (d)(2) below.

(2) If the case was filed under Chapter 7, or was filed under Chapter 12 or 13 and the secured debt is not paid entirely through the plan, and creditor sent monthly statements to debtor before the bankruptcy petition, creditor shall send monthly statements that contain the same information as, and are similar to, the monthly statements that creditor sent to debtor before the bankruptcy was filed.

(3) If the case was filed under Chapter 7, or was filed under Chapter 12 or 13 and the secured debt is not paid entirely through the plan, and creditor provided a coupon book or other similar set of invoices to debtor, creditor shall send to debtor and debtor's attorney a default letter setting forth the postpetition arrearages upon any perceived or actual default by debtor, and before taking any steps to modify the automatic stay.

(d) **Forms of Communication; Issuance of Monthly Statements Do Not Violate the Automatic Stay.**

(1) For this subpart, creditor shall be considered to have sent the requisite documents or monthly statements to debtor when creditor has placed the required document in any form of communication that, in the usual course, would result in debtor receiving said document to the address that debtor last provided to creditor by agreement between debtor and creditor. Said communication may be transmitted via electronic mail, facsimile, United States Postal Service, commercial

communications carrier, or such other mode as is mutually acceptable to the parties.

(2) Creditor who provides account information or monthly statements under subparts (b) or (c) above shall not be found to have violated the automatic stay by doing so. Secured creditor may contact debtor about the status of insurance coverage on property that is collateral for creditor's claim, may respond to inquiries and requests or information about the account from debtor, and may send debtor statements, payment coupons, or other correspondence that creditor sends to its non-debtor customers without violating the automatic stay provided none of these communications includes an attempt to collect the debt.

(e) **Motions to Compel a Creditor to Issue Monthly Statements that Comply with this Local Rule.**

(1) Debtor may file a Motion to Compel Creditor to Issue Monthly Statements in Compliance with Mont. LBR 4001-3 ("Motion to Compel") if debtor can offer evidence that the information in sections (b), (c), or (d) is necessary. Before filing a Motion to Compel, debtor must make good faith attempts to contact creditor to determine whether the information is available. The motion must include a description of debtor's good faith attempts taken before filing the motion, any response from creditor, and the harm debtor has suffered, if any, as a result of creditor's failure to provide appropriate monthly statements.

(2) If creditor's regular billing system can provide a statement to debtor that substantially complies with this Local Rule but does not fully conform to all of its requirements, creditor may request that debtor accept such statements, and debtor may do so. If debtor declines to accept the non-conforming statements, creditor may file a motion, on notice to debtor and debtor's attorney, seeking a declaration by the Court that cause exists to allow such non-conforming statements to satisfy creditor's obligations under this Local Rule. For cause shown, the Court may grant a waiver for purposes of a single case or multiple cases and for either a limited or unlimited period of time. No waiver will be granted, however, unless the proffered statement substantially complies with this Local Rule and creditor has demonstrated that it would be an undue hardship for it to strictly comply with this Local Rule.

RULE 4002-1. Property in Need of Attention or Protection, Debtors with Special Needs, Privacy Ombudsmen, Domestic Support Obligations, and Other Documentation.

(a) **Inventory or Equipment.** When a stock of goods or inventory, or business equipment is scheduled, the trustee or a secured creditor with a security interest in such assets may request the debtor provide a brief explanation of its exact location, the name and address of the custodian thereof, the protection being given such property, and the amount of fire and theft insurance, if any, and state whether prompt additional attention or protection is necessary. Upon receipt of such request, the debtor shall provide such information to the requesting party within 21 days unless the parties agree otherwise, or the Court extends the time period to respond.

(b) **Need for Immediate Action.** If a stock of goods includes perishables, or if the property or the business premises otherwise requires immediate attention or protection, debtor or debtor's attorney shall notify trustee about the need for immediate action when relief is ordered under Chapters 7, 12, or 13, or when trustee is appointed under Chapter 11. The notification shall be by personal communication or by telephone.

(c) **Debtors with Special Needs.** If debtor has special needs, such as a hearing impairment that would require the services of a sign language interpreter, debtor or debtor's counsel shall make the Court and U.S. Trustee aware of such circumstances as soon as possible after the commencement of the case.

(d) **Consumer Privacy Ombudsman.** If it appears that a case may involve the sale or lease of personally identifiable information, as defined in 11 U.S.C. § 101(41A), or if the appointment of a consumer privacy ombudsman under 11 U.S.C. § 332 may be required in a case, debtor or its attorney shall notify the Court and U.S. Trustee immediately upon the filing the case.

(e) **Domestic Support Obligations.** Within 14 days of commencing a bankruptcy case, debtor shall file a statement in substantial compliance with Mont. LBF 30.

(f) **Documentation Required by § 521.** To facilitate the filing of the documents required by 11 U.S.C. § 521, debtor shall file a form in substantial compliance with Mont. LBF 37.

Related Authority:
11 U.S.C. §§ 101(14A), 332, and 521
Fed. R. Bankr. P. 4002

RULE 4002-2. Annual Financial Reports in Chapter 12 Cases.

A debtor whose Chapter 12 case has not been closed by the Court before the end of each calendar year shall annually prepare and serve the following materials on trustee: an annual summary of operations, using the report form prescribed by trustee; an annual financial statement; and a balance sheet. The latter two documents may be copies of financial statements and balance sheets provided to lenders by debtor.

RULE 4002-3. Plan Payments in Chapter 12 Cases.

All plan payments made by debtor in possession to Chapter 12 trustee shall be paid by cashier's check or certified check at least 14 days before the payment dates specified in debtor's plan or at least 28 days before such dates if paid by debtor's personal check.

RULE 4002-4. Estimate of Administrative Expenses in Chapter 12 Cases.

Debtor shall file an estimate of administrative expenses, containing the detail required in Mont. LBR 3017-3, at least 14 days before the confirmation hearing.

RULE 4002-5. Monthly Financial Reports in Chapter 12 and 13 Cases.

A debtor that is engaged in business shall file a monthly financial report that reflects debtor's income and expenses within 14 days following the end of each calendar month.

RULE 4002-6. Filing of Income Documentation for 60 Days Before Bankruptcy and Turnover of Income Documentation for 60 Days to Chapter 13 Trustee.

At least 14 days before the meeting of creditors held pursuant to 11 U.S.C. § 341(a), debtor shall file with the Court copies of all payment advices and proof of income from all other sources received by debtor for the 60 days ending on the last day of the calendar month immediately preceding the case commencement. Debtors shall provide additional proof of income and expenses to U.S. Trustee as requested. In all Chapter 13 cases, debtors shall provide trustee income documentation for 60 days ending on the last day of the calendar month immediately preceding the case commencement. If no such payment advices or proof of income exists, debtors shall file with the Court a statement indicating they have no such documentation and why no such documentation exists.

RULE 4002-7. Turnover of Income Tax Returns during Pendency of Case.

Chapter 11, 12, or 13 debtor shall turn over to trustee (or to U.S. Trustee in the case of a Chapter 11 debtor in possession) copies of all state and federal income tax returns, together with all schedules, for each year ending while the case is pending before the Court, immediately upon filing the documents with the appropriate taxing authorities.

RULE 4003-1. Claims of Exemptions.

Debtor shall claim exemptions on Schedule C, as required by 11 U.S.C. § 522 and pursuant to Fed. R. Bankr. P. 1007. The Montana Code Annotated section or other authority under which each exemption is claimed, and each item of property claimed as exempt, together with the value of each such item, shall be described with specificity without reference to other schedules.

RULE 4003-2. Homestead Exemptions.

If a homestead exemption is claimed by debtor, a copy of the recorded homestead declaration shall

be delivered to the trustee.

Related Authority:
11 U.S.C. §§ 521 and 522
Fed. R. Bankr. P. 1007 and 4002
Mont. Code Ann. §§ 25-13-601 to -615 and 70-32-105 to -107

RULE 4003-3. Objections to Claims of Exemption.

Trustee or other party in interest may file an objection to debtor's claim of exemption in accordance with Fed. R. Bankr. P. 4003(b), by using Mont. LBF 29. The objection shall include a legal and factual basis for the objection. The objection to debtor's claim of exemption must be served upon debtor, debtor's attorney, and trustee, if any.

RULE 4003-4. Motions for Avoidance of Liens.

A debtor shall move to avoid liens pursuant to 11 U.S.C. § 522(f) by filing Mont. LBF 24, and by serving the creditor whose lien is subject to avoidance, or the creditor's attorney and trustee, if any.

RULE 4004-1. Procedures for Entry of Discharge in Chapter 12 and 13 Cases.

In cases where entry of debtor's discharge is dependent on the completion of plan payments, a discharge shall not be entered until the following requirements are met:

(a) **Chapter 12.** Upon completion of a Chapter 12 plan, debtor shall file a motion and attorney certification, and an affidavit in support in compliance with Mont. LBF 38 and 38-A.

(b) **Chapter 13.** Upon completion of a Chapter 13 plan, debtor shall file a motion and attorney certification, and an affidavit in support in compliance with Mont. LBF 39 and 39-A.

(c) **Motion for Entry of Discharge.** In the Chapter 12 and 13 Motion for Entry of Discharge and Affidavit, debtor shall certify that all payments under the plan have been completed and to the extent applicable:

(1) All domestic support obligations payable under any judicial or administrative order, or required by statute have been paid, including but not limited to the following:

(A) child support, spousal maintenance, and alimony that were due through the date of the motion, including all payments due under the confirmed plan for amounts due before the bankruptcy petition was filed; and

(B) any domestic support obligations that arose after the filing of the bankruptcy petition;

(2) Debtor has not claimed a homestead exemption of the caps described in 11 U.S.C. § 522.

(3) In a Chapter 13 case, debtor has completed a financial management course required pursuant to 11 U.S.C. §§ 111, 1328(g)(1) and filed a certification of completion with the Court.

(d) **Attorney Certification - Chapter 12.** If debtor was represented by an attorney during a Chapter 12 case, debtor's attorney shall certify that attorney has explained the requirements for a discharge to debtor and that to the best of attorney's knowledge, debtor qualifies for a discharge under 11 U.S.C. §§ 1228(a) and (f).

(e) **Attorney Certification - Chapter 13.** If debtor was represented by an attorney during a Chapter 13 case, debtor's attorney shall certify that attorney has explained the requirements for a discharge to debtor and that to the best of the attorney's knowledge, debtor qualifies for a discharge under 11 U.S.C. §§ 1328(a), (d), (g)(1), and (h).

(f) **Service of Motion.** Debtor shall serve the Motion for Entry of Discharge upon the parties to whom debtor is or was obligated to make the domestic support payments described in subpart (d)(1) above, if any, as well as all of debtor's creditors. In a Chapter 13 case, the Motion for Entry of Discharge shall neither be filed nor served until after trustee files a Notice of Completion of Plan Payments. The Notice of Completion of Plan Payments shall be filed by trustee after the time to comply with Fed. R. Bankr. P. 3002.1(g) has expired.

(g) **No Motion - No Discharge.** If no Motion for Entry of Discharge is filed, the Court will not issue a discharge in debtor's case in Chapter 12 and 13 cases. If no Motion for Entry of Discharge is filed within a reasonable time after completion of the payments due under debtor's confirmed plan, the case may be closed without the entry of a discharge order. If debtor later files a Motion for Entry of Discharge, debtor will be required to pay the reopening fee unless debtor can demonstrate cause for the waiver of such fee.

PART V

RULE 5001-1. Clerk's Office Hours and Address.

The Office of the Clerk of the Bankruptcy Court is located in the Mike Mansfield Federal Building and U.S. Courthouse, Room 273, 400 North Main, in Butte, Montana 59701 and shall be open

between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, for the filing of papers. *See* Mont. LBR 5005-1 for electronic filing. The mailing address is Clerk of U.S. Bankruptcy Court, Mike Mansfield Federal Building and U.S. Courthouse, Room 263, 400 North Main, Butte, Montana 59701.

Related Authority:
11 U.S.C. § 301
Fed. R. Bankr. P. 5001, 5003, and 5005

RULE 5001-2. Divisions of Court.

The Bankruptcy Court for the District of Montana is divided into the following Divisions, and Court trials or hearings are held in each Division depending upon debtor's county of residence or principal place of business, as follows:

(a) **Billings Division:** Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, Wheatland, Wibaux, and Yellowstone.

(b) **Butte Division:** Beaverhead, Broadwater, Deer Lodge, Jefferson, Gallatin, Granite, Lewis & Clark, Madison, Park, Powell, and Silver Bow.

(c) **Missoula Division:** Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders.

(d) **Great Falls Division:** Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, Meagher, Phillips, Pondera, Teton, and Toole.

RULE 5001-3. Court Hearings and Creditors' Meetings.

Bankruptcy Court trials and hearings are regularly scheduled in Butte, Missoula, Great Falls, and Billings. Meetings of creditors pursuant to 11 U.S.C. § 341(a) are held via Zoom and are arranged and scheduled by the Office of U.S. Trustee at its sole discretion.

Related Authority:
11 U.S.C. §§ 341(a) and 343
28 U.S.C. § 151
Fed. R. Bankr. P. 5001(b)

RULE 5003-1. Withdrawal of Documents from Proofs of Claim.

After a proof of claim has been filed, the Clerk may, without an order of the Court, permit the claimant to substitute a photocopy for any original note or other instrument in writing filed in support of such claim. The original, upon return, may be endorsed reflecting its attachment to a

claim in a bankruptcy proceeding.

RULE 5003-2. Exhibits to Pleadings and Proofs of Claim.

All exhibits shall be filed with the pleading or proof of claim to which they belong. Each exhibit shall be filed as a separate .pdf document, or as a single .pdf document with each exhibit bookmarked and identified therein. Entities filing exhibits not prepared in electronically produced text shall scan and electronically file only excerpts of the documents that are directly relevant to the matter under consideration by the Court. Excerpted material must be clearly and prominently identified as such, and the complete exhibit must be made available immediately to attorneys and Court on request. Entities filing excerpts do so without prejudice to their right to file by electronically scanning additional excerpts or the complete document with the Court. Responding entities may file by electronically scanning additional relevant excerpts. Oversized and voluminous attachments will not be filed and will be returned by the Clerk. Filing attachments by other than electronic means is not encouraged but may be permitted at the discretion of the Court.

Comment:

Each exhibit must be filed or bookmarked separately, so the Court and other parties may easily retrieve each individual exhibit from the electronic filing. Transcripts from Rule 2004 examinations or meeting of creditors pursuant to 11 U.S.C. § 341 that are used for impeachment purposes do not need to be filed with the Court. Such transcripts shall be filed with the Court if they will be used for evidentiary purposes.

RULE 5003-3. Judgments and Orders.

As the Director of the Administrative Office of the United States Courts has not prescribed a form and manner for the U.S. Bankruptcy Clerk of Court to maintain judgments and orders, a prevailing party shall request that a copy of every final judgment or order affecting title to or lien on real property, or for the recovery of money or property, and every other judgment or order as directed by the Court, be kept and indexed with the civil judgments of the District Court in the judgment docket. To perfect a judicial lien, the prevailing party shall comply with applicable law.

RULE 5005-1. Electronic Filing.

Electronic filing through CM/ECF is mandatory for all users, except for self-represented litigants. Documents shall be filed, signed, or verified by electronic means through CM/ECF and according to rules and procedures adopted by the Court. A document filed by electronic means in compliance with this Local Rule constitutes a written paper for the purposes of applying these Local Rules, Fed. R. Civ. P. made applicable by any Local Rule, and 11 U.S.C. § 107. The Clerk shall distribute instructions and procedures for electronic filing to members of the Bar and interested parties, which will be posted on the Court's website at www.mtb.uscourts.gov and available from the clerk's office upon request. No papers or documents shall be filed with the U.S. District Court Clerk or at the Bankruptcy Judge's chambers. Documents electronically filed via CM/ECF and

received by the clerk's office on or before 11:59 p.m. on the date filed shall be deemed filed on that date.

RULE 5005-2. Requirements for Papers, Attorneys, Parties, and Bankruptcy Petition Preparers.

(a) **Size and Format.** Filings and attachments must conform to these specifications:

(1) be electronically filed in a flattened pdf format, and self-represented litigants must use 8 ½ x 11-inch paper;

(2) be legible, whether typed or duplicated, in at least 12-point font size, except the master mailing list shall be in 10-point font size;

(3) have no less than one-inch margins, exclusive of page numbers;

(4) be consecutively paginated with page numbers on the bottom of the page;

(5) be double-spaced, except for quoted material and footnotes;

(6) be one-sided, not 2-sided;

(7) use a nationally recognized citation form (i.e., The Harvard Citator or the Association of Legal Writing Directors (ALWD) Citation Manual);

(8) NOT be stapled but only be bound by paper or binder clip if filed by self-represented litigants.

(b) **Identification of Attorney and Party.** The following information must appear in the upper left-hand corner of the first page of each document or pleading presented for electronic filing, in the order specified, except that in multiparty or multi-attorney actions or proceedings, reference may be made to the signature page for the complete list of attorneys and parties represented:

(1) name of attorney (or, if self-represented litigant, the name of the litigant);

(2) office mailing address;

(3) telephone number;

(4) email address;

(5) state bar ID

(6) specific identification of party represented by name and interest in litigation (i.e., Attorney for Debtor, Attorney for Plaintiff, etc.).

If a party does not have an address or telephone, the document shall set forth a work or third party's address or telephone number where the party may be contacted.

(c) **Signature Compliance.** The authorized CM/ECF user login and password required to submit documents to CM/ECF serve as the user's signature on all electronic documents filed with the Court. The login and password also serve as a signature for purposes of Fed. R. Bankr. P. 9011, and for any other purpose for which a signature is required in connection with proceedings before the Court. Filing by electronic means requires that the signature of any person, individually or on behalf of an entity, shall conform to either a cursive signature on the signature line or a conformed signature using a /s/ and then the typewritten name. Examples follow of acceptable signatures:

/s/ (name of person filing document in cursive)
(typed name of person); or

/s/ Joseph P. Smith
Joseph P. Smith

A signature, whether original, photocopied, scanned, or conformed, shall constitute the person's verification that such person has read the contents of the pleading and certification that Fed. R. Bankr. P. 9011(b) has been satisfied.

(d) Bankruptcy Petition Preparers. All bankruptcy petition preparers providing services to debtors filing documents before the United States Bankruptcy Court for the District of Montana shall provide the name and physical address of an authorized agent for service of process, and shall provide a physical street address for their business.

RULE 5005-3. Custody of Records and Release.

No record or paper belonging to the files of the Court shall be taken from the Clerk's custody except with the permission of the Judge to whom the case is assigned, and a receipt given by the party obtaining it that specifies the record or paper, the date of its receipt, and the date it is to be returned. If the presiding Judge is unavailable or cannot be reached to give permission, the Clerk or deputy in charge of the office is vested with the discretion to release any record or paper.

RULE 5005-4. Custody of Exhibits and Release.

Every exhibit in an electronic file shall be held in the Clerk's custody. If, given the voluminous nature of an exhibit, a party submits an exhibit in paper form upon approval of the Court, such exhibit will be retained until the case is closed. The Clerk shall notify the party that such exhibit may be obtained from the Clerk. The Clerk may dispose of the exhibit if the party does not make arrangements to obtain the exhibit within 30 days after the clerk's notice is issued.

Any party may withdraw, after service to all parties, any exhibit the party has filed in paper copy

or original form, upon filing a waiver of the right to an appeal and to a new trial. If another party or witness files notice within seven days thereafter requesting withdrawal of the same exhibit, the Clerk shall keep the exhibit in custody until the Court has determined who is entitled to it or until all interested persons consent to its release. If exhibits are not withdrawn within 30 days after the judgment has become final, the Clerk may dispose of them within a reasonable time after notice to the party offering the exhibit.

RULE 5009-1. Trustee's Report and Accounting in Chapter 12 and 13 Cases.

Within 30 days following the entry of an order of conversion or dismissal, trustee in a Chapter 12 or 13 case shall file a report and accounting of all receipts and disbursements made pursuant to the plan, and shall serve a copy of such final report and accounting on debtor or debtor's counsel, all creditors who have filed a timely proof of claim, and other parties in interest.

In a completed Chapter 12 or 13 case, trustee shall report to the Court within 30 days of the final distribution of funds under the plan that debtor has completed all payments. Trustee shall file a final report and account with the Court as soon as practicable after the last disbursement check clears trustee's bank and shall serve a copy of such final report and accounting on debtor, all creditors who filed timely proofs of claim, and other parties in interest.

Related Authority:
11 U.S.C. §§ 347, 1202(b)(1), and 1302(b)(1)

RULE 5010-1. Reopening Closed Cases with Subsequent Income Tax Refunds.

Trustee shall not need to file motions or take any other affirmative actions to reserve the right to reopen closed cases in which the only asset trustee may later seek to administer upon reopening is a tax refund based upon income earned before the commencement of the case that debtor receives.

Related Authority:
11 U.S.C. §§ 521(1) and 554(c)

RULE 5011-1. Withdrawal of Reference.

(a) **Motion to Withdraw Reference.** A motion to withdraw a case or proceeding under 28 U.S.C. § 157(d), and any response, shall be filed with the Clerk of the Bankruptcy Court. A motion to withdraw the reference shall be filed and served promptly after service of any pleading or document in which the basis for the motion first arises. Response documents shall be filed and served no later than 14 days after service of the motion for withdrawal. If a response is filed, a reply, if any, shall be filed no later than seven days after service of the response to the motion.

(b) **Transmittal of Documents to District Court.** Except as otherwise ordered by the Bankruptcy Court, 28 days after the filing of the motion to withdraw the reference, or after a response and reply have been filed, whichever is earlier, the Clerk of the Bankruptcy Court shall transmit to the District Court the motion, any response, reply, memoranda in support and associated exhibits that have been filed with the Bankruptcy Court. Following transmission to the District Court, any future filings associated with the motion to withdraw the reference shall be filed with the Clerk of the District Court. Documents relating to other matters in the bankruptcy case or adversary proceeding shall be filed with the Clerk of the Bankruptcy Court unless otherwise ordered by the Bankruptcy or District Court.

(c) **Proceedings in District Court.** A motion to withdraw the reference shall be assigned to a District Court Judge. Unless otherwise ordered by the District Court, a motion to withdraw the reference will be decided by the Court without a hearing. A party desiring oral argument should indicate in its motion or responsive pleading. The District Court may in its discretion grant or deny the motion, in whole or in part, and make such orders as it deems appropriate for the orderly disposition of the case or proceeding. Upon entry of a dispositive order by the District Court, the Clerk of the District Court shall forward a copy of the order to the parties and transmit a copy to the Bankruptcy Court for filing in the bankruptcy case.

Related Authority:
28 U.S.C. § 157(d)

RULE 5070-1. Scheduling.

Attorneys shall schedule hearings for all matters to be heard in any division, except that only the Court shall set hearings for pretrial conferences in adversary proceedings, disclosure statement hearings, and confirmation hearings for Chapters 11, 12, and 13 cases. The Court may reschedule matters at any time.

RULE 5071-1. Request for Continuance.

Any party requesting the continuance of a trial, hearing, or conference shall:

(a) file a motion seeking the continuance at least three business days before the scheduled trial, hearing, or conference;

(b) advise the Court of the affected party's response to such request or what attempts have been made to gain each party's consent; and

(c) give telephone notice of the date, time, and location of, and reason for, the continued hearing to all affected parties and file written confirmation of such notice with the Clerk within two days of receiving such information from the Court unless all affected parties receive electronic notice.

(d) If multiple matters in the same case are set for the same date and hearing time, the motions for a continuance may be combined into a single motion.

RULE 5072-1. Decorum in all proceedings.

The following procedures are to be followed in all proceedings:

(a) there shall be no oral confrontation or colloquy directly between opposing attorneys or parties, and all persons within the courtroom shall be treated with dignity and respect;

(b) all persons appearing in person and addressing the Court shall stand, unless otherwise directed by the Court, and address the Court from the podium or from a microphone location to improve the quality of the recording;

(c) all objections shall be stated with specificity before any argument or explanation of the same (i.e., leading, hearsay, improper foundation, etc.);

(d) during the witness testimony, attorneys shall not approach the witness box, bench, or the Clerk's bench without the Court's prior approval;

(e) counsel shall request assistance from the courtroom deputy if they wish to use blackboards, view boxes, or other audio-visual aids and shall make their request sufficiently in advance to allow for set-up of this equipment when the Court is not in session;

(f) counsel shall address each other and all witnesses by formal name (rather than by first name) during all court proceedings; and

(g) whether appearing remotely or in person, all attorneys shall wear business, not business casual, attire while appearing before the Court.

(h) The following procedures are to be followed in all proceedings where parties are appearing by video or other electronic means:

(1) **Prior Notice of Intent to Participate.** Anyone electing to appear remotely shall utilize the procedure identified by Mont. LBR 5074-1(c). "Video" for purposes of Mont. LBR 5074-1(c) shall refer to "Zoom" unless the Court designates an alternative or subsequent videoconferencing application. A party requesting to appear by video shall be responsible for ensuring a stable internet connection.

(2) **Remote Appearance Conduct.** Participants shall strive to conduct themselves in the same manner as they would in open court. To maintain the decorum of the proceedings, any party, counsel, or witness appearing via Zoom shall:

(A) Dress professionally;

(B) If a participant chooses to use a "background," the background should reflect professionalism and not detract from the proceedings;

(C) Identify themselves for the record each time they speak;

(D) If a party appears from home or other shared space, the other occupants of the space should be advised that Court is proceeding, and the party appearing remotely cannot be interrupted;

(E) Appear in a quiet location and mute their microphone until their case is called and their participation is necessary;

(F) Ensure the location has appropriate internet connectivity capabilities to support any necessary streaming and downloading of documents, among other things.

(G) If for some reason, a connection to a participant is lost, the Court will stop the proceedings, and the Court's IT staff will endeavor to fix the problem.

RULE 5073-1. Photography, Recording Devices, and Broadcasting.

(a) **Cameras and Personal Electronic Devices.** District Court Local Rule 1.3(d) shall govern the use of cameras and personal electronic devices within the courthouses of this District.

(b) **Broadcasting** Prohibited.

Inside the courthouses of this District, broadcasting is prohibited, regardless of technology or medium, except that:

(1) The Court may permit electronic or photographic preservation of evidence and perpetuation of the record;

(2) The Court may also permit broadcasting, televising, or photographing of ceremonial proceedings; and

(3) The Court may conduct video conferences at the established Court locations in Butte, Billings, Great Falls, and Missoula and off-site locations.

RULE 5074-1. Telephone, Video, or In-Person Conferences and Hearings.

(a) **Conferences and Hearings.** The Court may schedule any matter in a bankruptcy case,

contested matter, or adversary proceeding to be heard by video or telephonic conference. Any party in interest affected by or involved in such case, matter, or proceeding may request the Court to hear the matter by video conference or in person. The Court may, at its discretion, hold pretrial conferences in adversary proceedings, preliminary hearings on motions to modify, preliminary hearings, hearings on reaffirmation agreements, and any other matters requiring an emergency hearing by telephone. The Court, except within its discretion, will not conduct evidentiary hearings by telephone.

(b) **Expedited Hearings**. In accordance with Mont. LBR 9013-1(i)(2)(N), the Court will grant or deny requests to hear matters on an expedited basis at its discretion. If a request for an expedited hearing is granted, the moving party shall serve the Order granting such relief on all parties entitled to notice within two business days unless directed otherwise by the Court.

(c) **Appearance by Video.** Any party or counsel wishing to appear at a court proceeding via video shall complete the "Notice of Remote Appearance" Form available on the Court's website (https://www.mtb.uscourts.gov/notice-remote-appearance) and submit the completed form to the Clerk at least three business days before the proceeding. Parties should submit one form per court date regardless of the number of matters they are appearing in on a given day but must list all matters in which they will appear on the form.

(1) Any party that intends to appear by video from a remote location shall file a notice at least three business days before the hearing and further certify that any witness will have access to all exhibits that may be the subject of direct or cross-examination, or exhibits used for impeachment or rebuttal purposes.

(2) Parties shall confer before a hearing and ensure all witnesses have access to a copy of any exhibit utilized at the hearing.

Requests to appear remotely in contested matters may not be permitted at the Court's discretion depending on the issues to be adjudicated.

(d) **Recording Virtual Proceedings Prohibited.** Other than official court reporters and official electronic recorders employed by the Court, parties appearing remotely are not permitted to make audio or video recordings or take screenshots of the proceedings from any location by any means. Mont. LBR 5073-1, which relates to personal electronic devices and broadcasting, applies to parties appearing remotely or in virtual hearings.

(e) **Additional Information to be Provided for Remote Witnesses.** In addition to the Notice of Remote Appearance form, any individual desiring to appear by video that may be called to testify ("Remote Witness") shall also file the following information in the case:

(1) The name and title (if any) of the Remote Witness;

(2) The location (city, state, country) of the Remote Witness;

(3) The place from which the Remote Witness will testify (e.g., home, office –

addresses are not required);

(4) Whether anyone will be in the room with the Remote Witness during the testimony, and, if so, who and for what purpose;

(5) Whether the Remote Witness will have access to any documents other than exhibits provided to the Court and the parties, and if so, what documents; and

(6) The participants' intent, or lack thereof, to seek sequestration of witnesses under Federal Rule of Evidence 615.

(f) **Exchange of Exhibit and Witness Lists.** The parties involved in video and in-person conferences and hearings shall exchange proposed witness and exhibit lists and copies of all proposed exhibits, and file such lists and exhibits with the Court at least three business days before a hearing or trial.

(1) Witness and exhibit lists may be combined into one document. Copies of all proposed exhibits shall be attached to such list, and each exhibit must be electronically filed as a separate .pdf document; or as a single .pdf document with each exhibit bookmarked and identified therein. The location of any witness appearing remotely shall be disclosed in the witness list so counsel can coordinate exhibits necessary for that witness.

(2) The moving party in a contested matter and the plaintiff in an adversary proceeding shall identify exhibits in numerical sequence commencing with the number 1. The responding party in a contested matter and the defendant in an adversary proceeding shall identify exhibits in alphabetical sequence commencing with the letter A. If multiple parties are involved, before a hearing or trial, the parties shall determine an identification sequence that eliminates any duplicative sequence.

(3) Failure to timely exchange and file proposed witness and exhibit lists and copies of proposed exhibits in accordance with this Local Rule may result in the Court barring any undisclosed witness testimony and denying the admission of any exhibit not disclosed or exchanged.

(4) Any impeachment exhibits shall be circulated to the Court and counsel at least three days before the scheduled hearing or trial. Each impeachment exhibit shall be separately labeled, in a .pdf format, and password protected. Counsel shall not use the same password for each impeachment exhibit. Counsel shall ensure that all impeachment exhibits are accessible to the witness. If an impeachment exhibit is utilized at the hearing or trial, counsel shall identify it by its title, request the witness to access it, and provide the Court and all parties with the unique password.

(5) Except as the Court may otherwise allow, all exhibits shall be electronically filed.

(6) For purposes of any hearing or trial, counsel for the proponent of the exhibit shall

be responsible for ensuring that sufficient copies of any exhibit that may be utilized are available for any witness in the courtroom.

(g) **Testimony by Remote Witnesses.** The Court will administer the oath to each remote witness during the video hearing, and it shall have the same effect as if the Court swore in the witness in person. The following shall apply as additional safeguards for testimony by Remote Witnesses:

(1) No person, including counsel, shall be permitted to be in the same room with any remote witness unless specifically and expressly authorized by the Court before the Remote Witness begins testifying.

(2) No person shall communicate in any manner with a Remote Witness during his or her testimony, except by direct examination and cross-examination on the record, unless specifically and expressly authorized by the Court before the communication occurs.

(3) Remote Witnesses shall have before them only the exhibits provided to the Court for consideration in connection with the matters set for hearing and no other documents or data.

(4) The Court or any party may request that the Remote Witness display identification or request that one or more participants verify the identity of the Remote Witness if there is any question about the identity of the Remote Witness.

The Court may disqualify any Remote Witness from testifying, enter sanctions, or take other appropriate action if, during testimony by a Remote Witness or otherwise, it is discovered that the Remote Witness is being coached or otherwise communicated to; there is an undisclosed person in the room with the Remote Witness; or the Remote Witness has notes or other documents in their possession that have not been disclosed.

Comment:

Each exhibit must be filed or bookmarked separately, so the Court and other parties may easily retrieve each individual exhibit from the electronic filing. Transcripts from Rule 2004 examinations or meeting of creditors pursuant to 11 U.S.C. § 341 creditor meetings used for impeachment purposes do not need to be filed with the Court. Such transcripts only need to be filed with the Court if they will be used for evidentiary purposes.

For purposes of this rule, the three business days shall be counted consecutively ending on the business day immediately before the proceeding. This includes the day of the filing and concludes the day before the proceeding.

RULE 5077-1. Availability of Audio Files of Court Proceedings on the Public Docket.

Digital recordings of court proceedings will be made available on the public docket as a convenience. These recordings will not be considered the official record for any purpose; however,

counsel may refer to the minute and seconds of an audio recording in their briefings before this Court but not for purposes of appeal or impeachment at an evidentiary hearing. If an individual requires an official record of a hearing for any purpose, a transcript must be ordered using the appropriate procedure. It is the responsibility of each party and/or their counsel to notify the Court and courtroom deputy of their desire to restrict audio from the public docket during or before the court proceeding.

RULE 5078-1. Clerk's Fees in Chapter 13 Cases.

Unless otherwise ordered, trustee in a Chapter 13 case shall pay any claim of the Clerk of Court for fees or costs incurred in a case at the time of the initial distribution under the plan. The Clerk shall provide a statement of such fees or costs to trustee immediately following the confirmation of the plan.

Related Authority:
28 U.S.C. § 1930

PART VI

RULE 6004-1. Notice of a Proposed Sale by Trustee or Debtor in Possession.

A notice of a proposed sale filed by trustee or debtor in possession shall include the 21-day notice provided in Mont. LBR 9013-1 and the information required by Fed. R. Bankr. P. 2002(c)(1). In accordance with Fed. R. Bankr. P. 9006(c)(1), the 21-day notice period may be reduced for good cause shown. A party in interest may file a response and request a hearing pursuant to Mont. LBR 9013-1.

Related Authority:
Fed. R. Bankr. P. 6003 and 6004

Comment:

It should be noted that Fed. R. Bankr. P. 6003 now provides that within 21 days after the filing of a petition, the Court shall not grant relief regarding a motion to use, sell, lease, or otherwise incur an obligation regarding property of the estate, except to the extent that relief is necessary to avoid immediate and irreparable harm. The Court can make the order approving the motion retroactive to the date of its filing.

RULE 6006-1. Motions for Assumption or Rejection of an Executory Contract or Unexpired Lease.

(a) **Motion.** A motion for assumption or rejection of an executory contract or unexpired lease pursuant to 11 U.S.C. § 365 shall be made in compliance with Mont. LBR 9013-1 and in conformity with Mont. LBF 25, if appropriate, and promptly served in a Chapter 9 or 11 case upon any committee appointed under the Code or its authorized agent, or, if no committee has been appointed, creditors listed under Fed. R. Bankr. P. 1007(d). Executory contract or lease documents shall be attached to the motion unless such documents are attached to a timely filed proof of claim or otherwise located in the file, and reference to such proof of claim by number or file location by docket number shall be made in the motion.

(b) **Response to Motion.**

(1) A response must comply with Mont. LBR 9013-1. Any response must state with specificity the grounds for all objections, including citation to applicable statutes and case law, provisions of the executory contract or unexpired lease in question, and the facts regarding whether any default exists under the executory contract or unexpired lease.

(2) If debtor or trustee proposes to offer a cure of default or adequate assurance, the response must state with specificity the terms of the cure or adequate assurance debtor or trustee offers to provide (e.g., periodic payments, substitute liens, or other indubitable equivalents).

(c) **Stipulation for Assumption or Rejection of Executory Contract or Unexpired Lease.** A stipulation for assumption or rejection of an executory contract or unexpired lease, joined by creditor, debtor, and trustee, if any, may be filed, together with a proposed order, and an order shall be issued without a hearing.

Related Authority:
11 U.S.C. § 365
Fed. R. Bankr. P. 6003, 6006, 9014

Comment:

Debtor, debtor's attorney, trustee, if any, U.S. Trustee, any affected creditor, and parties requesting special notice should be served with the motion. In a Chapter 11 case, in addition to the above entities, any appointed committees, or if no committees are appointed, then to creditors listed under Fed. R. Bankr. P. 1007(d) should be served with the motion.

It should be noted that Fed. R. Bankr. P. 6003 now provides that within 21 days after the filing of a petition, the Court shall not grant relief regarding a motion to assume or assign an executory contract or unexpired lease in accordance with 11 U.S.C. § 365, except to the extent that relief is necessary to avoid immediate and irreparable harm. The Court can make the order approving the motion retroactive to the date of its filing.

RULE 6007-1. Abandonment.

Abandonment or other disposition of property shall be accomplished pursuant to Fed. R. Bankr. P. 6007 and in conformity with Mont. LBF 11. Trustee or debtor in possession shall give notice to

all entities specified in Fed. R. Bankr. P. 6007. Notices of proposed abandonment filed by trustee shall include the 14-day notice provided for in Mont. LBR 9013-1. A party in interest may file a response and request a hearing pursuant to Mont. LBR 9013-1. If no objections are filed, trustee or debtor in possession may abandon or otherwise dispose of the property without an order from the Court.

Related Authority:
11 U.S.C. § 554
Fed. R. Bankr. P. 6007

PART VII

RULE 7005-1. Service by Electronic Means.

Fed. R. Civ. P. 5, as amended, applies in adversary proceedings. In addition to other methods of service described in Fed. R. Civ. P. 5, service by electronic means is allowed provided the entity being served consents in writing to such electronic service. All authorized users of CM/ECF consent to electronic service. An entity or the Court may complete service under this Local Rule through electronic means by using the Court's transmission facilities, wherein the notice of electronic filing generated by CM/ECF (which contains a hyperlink to the filed document) shall constitute service (and proof of service) of the document, pleading, or other paper.

RULE 7016-1. Pretrial Procedures.

(a) **In Default Cases.** If the defendant has failed to appear or respond within the time permitted for an appearance or response, the procedure outlined herein shall not be applicable, but the Court may direct the non-defaulting party to appear or to file a pleading to note a default, the entry of a default judgment, and for scheduling a date for trial on the issue of damages if required by law. If the non-defaulting party fails to take action to prosecute its claim after reasonable notice to appear or to take such action, the Court may dismiss the proceeding for failure to prosecute.

(b) **Case Scheduling Conference, Pretrial Conference, and Order.**

(1) Within 21 days after the defendant files an answer, the Court will issue an order scheduling a telephone conference with all attorneys representing parties and with any self-represented litigant to discuss the following time limits in the case scheduling order: to complete discovery; to join parties and to amend pleadings; to file pretrial motions; to conduct and complete alternative dispute resolution procedures; to file the pretrial order; to exchange exhibits and identify witnesses; to file pretrial memoranda; and to set the trial date.

(2) The Court will issue an order containing the above time limits upon completion of the telephone conference. If multiple defendants exist in an adversary proceeding, the Court, in its discretion, may issue an order scheduling a telephone conference to establish appropriate dates for the appearing defendants and to determine the status of service of process on any unserved defendants.

(3) The Court, in its discretion, may set such additional pretrial conferences for expediting the disposition of the case, establishing early and continuing control, discouraging wasteful pretrial activities, improving thorough preparation, and facilitating the settlement of the case. During the case scheduling conference, the parties shall discuss whether alternative dispute resolution may be beneficial in resolving any contested issues. ~~(4) Pursuant to Fed. R. Civ. P. 26(d), as incorporated in Fed. R. Bankr. P. 7026, this Court, through this Local Rule and by other appropriate orders, directs that discovery may be commenced without leave of Court after the complaint is filed. Furthermore, all parties are expected to informally satisfy the initial disclosure provisions contained in Fed. R. Civ. P. 26(a) without the need for any formal discovery requests.~~

(c) **Initial Conference and Discovery Plan.** During the case scheduling conference, the parties shall orally discuss the names and addresses of individuals likely to have discoverable information, the need for and the names and addresses of possible expert witnesses, the existence and availability of documents, and a computation of damages, if applicable. Any information discussed shall be supplemented immediately upon discovering more complete or accurate information. Parties shall further discuss a discovery plan that addresses the nature and complexity of the claims or defenses alleged in the litigation.

Related Authority:
Fed. R. Bankr. P. 7016 and 7026
Fed. R. Civ. P. 16 and 26

Comment:

Mont. LBR 7016 and 7026 are based on Fed. R. Civ. P. 16 and 26, as incorporated in Fed. R. Bankr. P. 7016 and 7026. To promote thorough trial preparation, to conserve scarce judicial resources, and to expeditiously conclude litigation, the Court, under these Local Rules and the discretion and authority permitted by the rules to issue orders modifying strict compliance with the federal rules given the varying nature and complexity of the adversary proceedings filed before the Court, shall generally consolidate and coordinate the conferences and disclosures required under the federal rules.

RULE 7016-2. Continuances of Dates Set in Case Scheduling Order.

Parties and their attorneys are governed by the dates outlined in the Order entered immediately after the pretrial conference, and no extensions or continuances shall be granted in the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the normal processes of discovery shall not constitute good cause for an extension or continuance.

RULE 7026-1. Discovery.

(a) **Initial Disclosure.** Pursuant to Fed. R. Civ. P. 26(d), as incorporated in Fed. R. Bankr. P. 7026, this Court, through this Local Rule and by other appropriate orders, directs that discovery may be commenced without leave of Court after the complaint is filed. Furthermore, all parties are expected to informally satisfy the initial disclosure provisions contained in Fed. R. Civ. P. 26(a) without the need for any formal discovery requests. ~~The provisions of Fed. R. Civ. P. 26(a)(1), as incorporated in Fed. R. Bankr. P. 7026 shall not apply in adversary proceedings unless ordered by the Court on a case-by-case basis, except as provided in Mont. LBR 7016-1(b)(4). Mont. LBR 7016-1(c) provides that the initial disclosures and the discovery plan shall be considered and discussed during the case scheduling conference. Before the completion of the case scheduling conference, parties may commence discovery without leave of court. *See* Mont. LBR 7016-1(b).~~

(b) **Transcripts of Depositions.** No party shall take more than ten depositions, whether upon oral examination under Fed. R. Bankr. P. 7030 or written questions under Fed. R. Bankr. P. 7031. Exceptions to this Local Rule may be granted by the Court only upon written motion showing good cause. Original transcripts of depositions need not be filed with the Clerk of Court.

(c) **Requirement of a Writing.** All objections to interrogatories, depositions, requests, applications under Fed. R. Bankr. P. 7037, and all motions and replies concerning discovery matters shall be in writing and recite the offending interrogatory, deposition, request, or application with specificity. If time does not permit the filing of a written motion, the Court may, in its discretion, waive this requirement.

(d) **Objections to Discovery Process.** An objection to any interrogatory, deposition, request, or application under Fed. R. Bankr. P. 7037 shall be filed within 30 days after service of the offending interrogatory, deposition, request, or application unless otherwise ordered by the Court. Filing an objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter not explicitly included in the objection.

(e) **Mandatory Conference among Attorneys.** The mandatory Fed. R. Civ. P. 26(f) conference, as incorporated in Fed. R. Bankr. P. 7026, shall be conducted in conjunction with the case scheduling conference pursuant to Mont. LBR 7016-1(b). Attorneys are further encouraged to participate in non-court, pretrial discovery conferences to decrease contentious actions by attorneys and parties and the filing of unnecessary discovery motions. A motion concerning a discovery dispute shall not be filed until all attorneys have explored the possibility of resolving the discovery matters in controversy. The Court will not consider any motion concerning a discovery matter unless the motion is accompanied by an attorney's statement that a good faith effort has been made to resolve the discovery matter at issue.

(f) **No Filing of Discovery with Court.** Discovery of any type shall not be filed with the Court at any time unless a discovery dispute occurs and appropriate motions are filed, or the Court directs the parties to file discovery. A notice that discovery is occurring shall not be filed with the Court.

(g) **Motions to Compel.** After a discovery request is objected to or not complied with in a timely manner, and if not otherwise resolved under subsection (e) of this Local Rule, it is the

responsibility of the party initiating discovery to place the matter before the Court in a timely manner. A motion must be filed under Fed. R. Bankr. P. 7037, and in compliance with Mont. LBR 9013-1, to compel an answer, production, designation, or inspection. However, a party properly notified of a deposition must appear and submit to the deposition unless a motion to quash has been granted.

(h) **Other Discovery Motions.** Motions for a protective order under Fed. R. Civ. P. 26(c) conference, as incorporated in Fed. R. Bankr. P. 7026, and motions to compel physical or mental examination, including Fed. R. Bankr. P. 7035 shall comply with Mont. LBR 9013-1 and subsection (f) of this Local Rule.

(i) **Discovery Replies.** A response to a discovery motion and request for a hearing shall be filed in compliance with Mont. LBR 9013-1.

(j) **Compliance with Discovery Orders.** After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination required by the Court shall be done within 14 days after the entry of the order of the Court, oral or otherwise, unless otherwise ordered by the Court.

(k) **Failure to Comply with Orders.** Should a party fail to comply with an order of the Court concerning discovery motions, it is the objecting party's responsibility to place the matter before the Court by a proper motion for supplementary relief under Fed. R. Bankr. P. 7037.

(l) **Unnecessary Discovery Motions or Objections.** The presentation to the Court of unnecessary discovery motions or requests, as well as unwarranted opposition to proper discovery proceedings, may subject the offender to remedies and sanctions, including the imposition of costs and attorney fees.

RULE 7055-1. Default and Default Judgment.

(a) **By the Clerk.** A judgment of default may be entered by the Clerk upon application for default judgment with affidavits and amount due, including costs and disbursements, if any, filed by the party entitled to judgment other than under 11 U.S.C. §§ 523 or 727. The affidavit shall include a statement that no defense or other response has been received, or if received, shall detail the defense or other response received. If the party in default has appeared in the proceeding, a notice of the application for default judgment shall be served pursuant to Fed. R. Civ. P. 55(b)(2), as incorporated in Fed. R. Bankr. P. 7055. The Court may order a hearing on any application for default judgment.

(b) **Documents to Submit.** A party that is entitled to have the Clerk enter a default judgment pursuant to Fed. R. Civ. P. 55(b)(2) as incorporated in Fed. R. Bankr. P. 7055 must submit the following:

(1) application for the Clerk's entry of default pursuant to subsection (2) below;

(2) the Clerk's entry of default, which will be completed by the clerk's office when the required information is verified;

(3) a motion for entry of default judgment by the Clerk pursuant to (4) below; and

(4) a proposed default judgment with a statement showing the following:

(A) the principal amount due, not to exceed the amount of the original demand, giving credit for any payments and showing the amounts and dates of all payments;

(B) a computation of accrued interest to the proposed date of judgment; and

(C) any costs and taxable disbursements claimed.

(c) **Affidavit.** An affidavit of counsel or the party seeking default judgment must be attached to the default request showing:

(1) that the party against whom judgment is sought is not an infant, an incompetent person, or in the military service;

(2) that the summons and complaint were properly served in compliance with Fed. R. Bankr. P. 7004;

(3) that the party has defaulted on its obligation to appear or respond in the action;

(4) that the amount shown by the statement is justly due and owing and that no part thereof has been paid except as stated; and

(5) that the disbursement sought to be taxed has been made in the action or will necessarily be made or incurred.

The Clerk shall then enter judgment for principal, interest, and costs.

(d) **By the Court.** The party applying for entry of default judgment pursuant to Fed. R. Civ. P. 55(b)(2), as incorporated in Fed. R. Bankr. P. 7055, must file the following papers:

(1) a motion for entry of default judgment;

(2) a proposed default judgment; and

(3) an itemized statement and basis regarding damages being requested.

Related Authority:
Fed. R. Bankr. P. 7055
Fed. R. Civ. P. 55

RULE 7056-1. Summary Judgment.

(a) **Summary Judgment Motions.** In addition to the following requirements, Mont. LBR 9013-1 and Mont. LBR 9013-2 shall apply to summary judgment motions, except for provisions dealing with the noticing of hearings. No hearings shall be held in connection with summary judgment motions unless ordered by the Court.

(1) **Statement of Uncontroverted Facts.** A separate, short, and concise "Statement of Uncontroverted Facts" must accompany every motion for summary judgment. Failure to submit this statement constitutes grounds for denial of the motion. The statement shall set forth each fact separately, in serial, not narrative form, and specify the specific portion of the record where the fact can be found (e.g., affidavit, deposition, etc.)

(2) **Statement of Genuine Issues.** Opposition to a motion for summary judgment, if any, must be filed within 14 days after the motion is served and must comply with Mont. LBR 9013-1. A separately identified, short, and concise "Statement of Genuine Issues," setting forth the opposing party's specific facts that establish a genuine issue of material fact precluding summary judgment in favor of the moving party, must be filed by the party opposing the motion together with an opposition brief.

(3) **Reply Brief.** A reply brief may be filed by the movant within 14 days after the opposition to the motion for summary judgment is served and must comply with Fed. R. Civ. P. 56.

(4) **Facts Admitted.** All material facts in the moving party's Statement of Uncontroverted Facts are deemed to be admitted unless controverted by a Statement of Genuine Issues filed by the opposing party.

(5) **Time for Filing.** Summary judgment motions must be filed by the date specified in the pretrial scheduling order.

(6) **Stipulation.** Alternatively, the parties may file a stipulation setting forth a "Statement of Stipulated Facts" with a representation that no genuine issues of material fact exist. Such stipulation is solely for the purpose of considering the summary judgment motion and is not otherwise binding.

(b) **No Tolling.** A summary judgment motion does not toll time requirements for filing a motion or answer pursuant to Fed. R. Bankr. P. 7012(b), or for complying with any other dates outlined in a pretrial scheduling order.

(c) **Consideration by the Court.** Nothing in this Local Rule shall require the Court to review portions of the record in response to a motion where the moving papers do not make specific

reference to portions of the record. To expedite a decision and for other good cause, the Court may *sua sponte*, on notice to all parties, deny a motion before the expiration of the 14 days ordinarily permitted for filing opposition papers.

(d) **Oral Arguments.** Unless the Court orders otherwise, no formal hearing on a motion for summary judgment will be conducted, and the Court shall consider and rule upon the merits of any such motion upon the expiration of the reply deadline without oral arguments by the parties.

Related Authority:
Fed. R. Bankr. P. 7012(b) and 7056
Fed. R. Civ. P. 56

RULE 7067-1 Registry Funds

(a) **General Information.** Terms governing registry funds and payment of associated fees are set forth in General Order 2016-03-RBK that may be found on the court's website. The Court Registry Investment System ("CRIS") is the sole authorized investment mechanism for money deposited in the court's registry. Parties will save time and effort by contacting the court's finance department for guidance on Judicial Conference policy before preparing documents to file with the court. Additional information can be found on the court's website.
(b) **Prerequisites to Filing Motion to Deposit Funds.**

(1) Before filing a motion to deposit money in the court's registry, a party must deliver the following documents to the clerk's office:

(A) a motion for an order to deposit funds into the court's registry, stating whether ownership of the funds is disputed;

(B) a completed and signed Registry Deposit Information Form from the court's website; and

(C) a proposed order stating the amount to be deposited.

(2) When the court's finance department confirms the documents are correct, the party must file the motion, the Registry Deposit Information Form, and a proposed order and serve all other parties who have appeared.

(c) **Filing.** The clerk is not authorized to accept funds for deposit without a court order.

PART IX

RULE 9001-1. Definitions.

The terms "documents" and "papers" used in these Local Rules include those filed or transmitted electronically.

RULE 9003-1. *Ex Parte* Contact.

No attorney, accountant, party in interest, or any of their employees shall engage in any *ex parte* meetings or communications with the Judge or Chambers' staff concerning any disputed issue of fact or law in a particular case, matter, or proceeding. This Local Rule does not limit or prohibit *ex parte* presentation of emergency or administrative matters, or *ex parte* applications contemplated by the Bankruptcy Code, Federal Rules of Bankruptcy Procedure, or these Local Rules.

RULE 9004-1. Case Numbering for Pleadings.

The case number provided in every pleading filed with the Court shall be in the following format:

0:12-bk-34567-ABC

The first digit preceding the colon corresponds to the filing division. The year the case was filed follows the colon. Next, either "bk" for a bankruptcy case or "ap" for an adversary proceeding follows the hyphen. Next, the case number follows the hyphen. The assigned judge's initials follow the last hyphen and complete the case number.

RULE 9005-1. Constitutional Challenge to a Statute – Notice, Certification, and Intervention.

In any case in which the constitutionality of (a) an Act of Congress is brought into question and in which the United States or any agency, officer, or employee thereof is not a party, or (b) a statute of a state is brought into question and in which the state or any agency, officer or employee thereof is not a party, the party raising the constitutional issue shall comply with 28 U.S.C. § 2403, Fed. R. Civ. P. 5.1, Mont. R. Civ. P. 5.1, or any other state's applicable rule or statute.

Related Authority:
Fed. R. Bankr. P. 7005 and 9006(f)
Fed. R. Civ. P. 5(b)(2)(D)

RULE 9007-1. Notice to Creditors and Others in Chapter 7 Asset Cases, and Chapter 12 and 13 Cases.

Unless otherwise specified in the Fed. R. Bankr. P., after the time for filing claims has expired in Chapter 7, 12, and 13 cases, notice need only be served on debtor, trustee, and their respective attorneys, U.S. Trustee, creditors having timely filed proofs of claim, and entities explicitly requesting copies of all notices; however, all creditors on the Clerk of Court's shall be served with copies of the final reports and accounts filed by Chapter 7 trustees; and only those creditors who filed timely proofs of claims shall be served with copies of final reports and accounts filed by Chapter 12 or 13 trustees.

Related Authority:
Fed. R. Bankr. P. 2002(h)

RULE 9009-1. Form of Chapter 12 and 13 Plans.

(a) **Chapter 12 Plans.** A Chapter 12 plan shall conform to Mont. LBF 14 and must include a liquidation analysis, and the projected income and expenses for the term of the plan.

(b) **Chapter 13 Plans.** Debtor's Chapter 13 plan shall conform to Mont. LBF 19.

Related Authority:
11 U.S.C. §§ 1221 and 1321

Comment:

Debtor shall file and serve all creditors and trustee with Debtor's Chapter 12 or 13 plans. In Chapter 13 cases, reference should be made to the particular Local Rules that pertain to estimated attorney fees and costs, as contained in Mont. LBR 2016-1, and the Committee Note pertaining to such Local Rule.

RULE 9011-1. Signing of Papers; Representations to the Court.

(a) **Signing of Papers.** All pleadings, motions, and other papers submitted for filing shall be signed by an attorney of record in the attorney's name, or if there is no attorney, by the party, except that debtor shall sign the petition, schedules, statements, and plan, if any. *See* Signature Compliance, Mont. LBR 5005-2(c).

(b) **Electronic Signatures.** Any person signing a document that will be electronically filed shall use either "/s/ Joseph P. Smith [person's name]" or "Joseph P. Smith [electronic cursive signature]." This signature shall constitute the signature of the person for purposes of Fed. R. Bankr. P. 9011. The original declaration under penalty of perjury relating to the petition, statements, schedules, and any amendment to any of these types of documents, shall be transmitted by personal delivery, mail, or electronic means to the Clerk and, if necessary, shall be scanned into the CM/ECF system. The signature appearing on the electronic document shall be the original. The Clerk shall not retain any originally signed documents but shall return them to the submitting

person, provided such person has presented the Clerk with a stamped, self-addressed envelope. If no envelope is presented, the Clerk will dispose of the document. Any password required for electronic filing shall be used only by the entity to whom the password is assigned and by authorized members and employees of an entity to whom the password is assigned.

RULE 9011-2. Reminders to the Court.

If a Judge has any matter under advisement, including but not limited to a motion or decision in a bench trial, for more than 60 days, each party affected by the undecided matter may send to the Judge a letter particularly describing the matter under advisement and stating the date the matter was taken under advisement. As long as the matter remains under advisement, each party shall send a similar letter to the Judge at intervals of 45 days after that.

RULE 9013-1. Motion Practice.

(a) **Applicability.** This Local Rule applies to all motions, applications, and other pleadings requesting an order unless governed by Mont. LBR 9013-1(h), in all contested matters and adversary proceedings.

(b) **Form.** All motions, including objections to discovery, shall be in writing, except those made during trial or a hearing.

(c) **Content of Motion.** The body of a motion or an accompanying brief shall state with particularity the relevant law by section and the relevant procedure by rule upon which the moving party relies, specify all relief requested, and include a brief statement explaining why the relief should be granted. If a motion consists of several documents, the moving party shall serve to any party relevant excerpts of all documents and all exhibits.

(d) **Multiple Motions.** Except for alternative requests for relief or as otherwise provided by rule or order of the court, each motion must be a separate document and filed separately. A document containing multiple motions shall not be filed multiple times using different events. If a party seeks to address two motions in a single filing (e.g., an opposition to summary judgment and a cross-motion for summary judgment), a separate filing for each document must be made. However, the second filing may simply indicate that it incorporates the first filing by reference and need not duplicate it in its entirety.

(e) **Service of Motion, Response, and Other Pleadings.**

(1) **Minimum Service.** In addition to all parties entitled to service under the Fed. R. Bankr. P., at a minimum, parties shall electronically serve notice of their respective papers upon all opposing attorneys, U.S. Trustee, trustee, if any, and any self-represented litigants and serve by mail any entity not receiving electronic service. The serving party shall file a Certificate of Service with the Clerk for all entities not receiving electronic service but receiving service by mail or other

means.

(2) **Certificate of Service or Transmittal.** Unless otherwise noted in this Local Rule, an original certificate of service shall be incorporated in, or attached to, each original pleading whenever service or transmittal of a document is accomplished by mail or other means and shall be filed with the Clerk. A certificate of service does not need to include entities served electronically through CM/ECF. The copies served on other entities shall also reflect such proof of service. All proofs of service, except those made by the Clerk or by electronic service under Mont. LBR 9013-1(e)(3), shall be made by a verified statement, under penalty of perjury, identifying the document and stating the date on which it was served or transmitted, the method by which service was accomplished, and include the name and address of each entity served. When a party relies upon a mailing matrix to serve or transmit a document, the party shall attach a copy of the mailing matrix relied upon by the party.

(3) **Service by Electronic Means.** For purposes of service of motions, documents, pleadings, and other papers, Fed. R. Civ. P. 5(b) shall apply. Service by electronic means is allowed, provided the entity being served consents in writing to such electronic service. All authorized users of CM/ECF have consented to receive electronic service. An entity or the Court may complete service under this Local Rule through electronic means by using the Court's transmission facilities, wherein the notice of electronic filing generated by CM/ECF (which contains a hyperlink to the filed document) shall constitute service of the motion, document, pleading, or other paper without the need for a separate certificate of service on those parties served by electronic means.

(f) **Notice of Opportunity to Respond.** After each motion, in bold and conspicuous print, the moving party shall include the following language, unless another applicable rule provides for a longer or shorter notice and response period than 14 days (See (g) below):

NOTICE OF OPPORTUNITY TO RESPOND AND REQUEST A HEARING

If you object to the motion, you must file a written responsive pleading and request a hearing within 14 days of the motion's date. The responding party shall schedule the hearing on the motion at least 21 days after the date of the response and request for a hearing and shall include in the caption of the responsive pleading in bold and conspicuous print the date, time, and location of the hearing by inserting in the caption the following:

NOTICE OF HEARING
Date:_____
Time:_____
Location:_____

If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.

(g) **Longer or Shorter Notice and Response Periods.** If a Fed. R. Bankr. P., or other applicable authority provides a notice period that is longer or shorter than 14 days, the motion should include the Notice required under 9013-1(f), except the period within which a responsive pleading is required shall be amended to include the correct notice period, (7, 21, 28, or another notice period that may be required).

(h) **Response to Motion.** Unless otherwise provided by the Local Rules, any entity objecting to a motion shall file a response and request a hearing within 14 days of the motion's date and shall, in the response, notice the contested matter for a hearing by including in the caption of the responsive pleading the date, time, and location of the hearing by inserting in the caption in bold and conspicuous print the Notice of Hearing as specified in the subpart (e) above. The notice of the hearing shall provide that the hearing on the contested matter shall be scheduled at the earliest hearing day following the expiration of the 21 days counted after the date of the response and request for a hearing. If no response and request for a hearing is filed within 14 days of the motion's date, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted. Any response must state with specificity the grounds for all objections, including citation to applicable statutes and case law, provisions of any executory contract or unexpired lease in question, and the facts regarding whether any default exists.

(i) **Exception for Specific Matters.**

(1) **Matters Governed by Other Rules.** The following matters are governed by the identified Local Rules and follow a similar procedure outlined in Mont. LBR 9013-1:

(A) Motions to Modify Stay, Mont. LBR 4001-1;

(B) Objections to Proofs of Claim, Mont. LBR 3007-1;

(C) Objections to Exemptions, Mont. LBR 4003-3;

(D) Motions to Avoid Liens and Nonpossessory, Non-purchase Money Security Interests, Mont. LBR 4003-4;

(E) Motions for Assumption or Rejection of Executory Contracts and Unexpired Leases, Mont. LBR 6006-1;

(F) Motions to Dismiss or Convert, Mont. LBR 1017-1; and

(G) Objections to Late Filed Claims, Mont. LBR 3002-1.

(2) **Matters the Court Will Routinely Grant or Deny, with the Right to Request a Hearing.** Upon motion and the submissions of a proposed order, the following matters will be routinely granted or denied, without notice or a hearing, in the Court's discretion, with any party in interest having the right to object, request a hearing, and schedule a hearing to reconsider the issuance of any Order within 14 days of the Order's date.

(A) Change of Venue;

(B) Motion for Rule 2004 Examination;

(C) Extending Time to Pay Filing Fee;

(D) Redemption of Property;

(E) Substitution of an Attorney;

(F) Motion to Appear *pro hac vice*;

(G) Reaffirmation Agreements (when signed by debtor, creditor, and attorney);

(H) Continuance/Rescheduling of Hearing;

(I) Debtor's Motion to Convert from Chapter 11 to Chapter 7;

(J) Entry of Default;

(K) Expediting Hearing;

(L) Extending Time to File Proofs of Claim;

(M) Participation in FSA Program;

(N) Pay Filing Fees in Installments;

(O) Recusal of Judge;

(P) Reopening Chapter 7, 11, 12, or 13 Case;

(Q) Conduct Appraisal by Creditor of Debtor's Property;

(R) Withdrawal of Trustee's No Distribution Report;

(S) Motion for Final Decree in a Chapter 11 case;

(T) Leave to Appeal;

(U) Stay Pending Appeal;

(V) Motion to File Briefs Longer than 15 pages;

(WX) Extending Time to File Motion to Dismiss Under § 707(a) or (b);

(XY) Extending Time to File Schedules and/or Statements of Financial Affairs;

(YZ) Compelling Turnover of Documents to the U.S. Trustee;

(ZAA) Motion to Defer Entry of Discharge under Fed. R. Bankr. P. 4004(c)(2);

(AABB) Motion by Chapter 7 Trustee for Authority to Operate Business Under § 721;

(BBCC) Motion to Extend Time to Obtain 15-Day Extension of Temporary Exemption from Credit Counseling Requirement Under § 109(h)(3);

(CCDD) Motion to Shorten Notice under Fed. R. Bankr. P. 9006(c)(1); and

(DDEE) Motion for Hearing

(j) **Notice Required Instead of Motion.** Notices and not motions may be filed for the following matters:

(1) Trustee's Transmittal of Unclaimed Funds;

(1) Debtor's conversion of a case from Chapters 12 or 13 to another chapter;

(2) Debtor's amendment of petition, schedules, statement of financial affairs, and any other statement, *see* Mont. LBR 1007-1 and 1009-1.

(3) Amending Schedules or Statement of Financial Affairs;

(4) Establish Bar Date for Proofs of Claim; and

(5) Notice of Amendment of Statement of Social Security Number;

(k) **Proposed Order.** Proposed orders shall be submitted via email by the moving party to the bph_propord@mtb.uscourts.gov email address. All proposed orders shall be submitted in a format compatible with Microsoft Word unless expressly directed by the Court to be submitted in an alternative format.

(1) The email subject line of all proposed orders shall contain the following items in the following order: (A) date the item was ripe; (B) case number, in conformity

with Mont. LBR 9004-1; (C) the last name or the business name of debtor; (D) the docket number of the filed motion corresponding to the proposed order; and (E) a brief description (e.g., 8/3/22; 0:01-10001, Smith; ECF No. 10 (Order Granting Motion to Dismiss)).

(2) Proposed order titles shall follow Mont. LBR 9013-1(k)(1) naming conventions except that the case number shall be shortened. (e.g., 8/3/22; 01-10001, Smith; ECF No. 10 (Order Granting Motion to Dismiss)).0F[1]

(3) Except as otherwise provided in Mont. LBR 9013-1(i)(2), proposed orders may not be submitted unless (A) the applicable response or objection period has expired (including any additional time afforded to parties receiving service via mail under Fed. R. Bankr. P. 9006(f)); (B) no timely responses or objections to the motion have been filed; and (C) the moving party has filed a certificate of no objection. No party shall be entitled to the relief sought by motion until an appropriate proposed order is submitted in accordance with this Local Rule. A failure to file a certificate of no objection within 14 days of the expiration of the applicable response or objection time, will result in denial without prejudice of the motion.

(4) Submission of a proposed order constitutes counsel's representation that service has been completed in conformity with applicable rules, that any applicable notice period has expired without objection (including additional time for mailing), and the matter is ripe for the entry of an order.

(5) If a timely objection has been filed and the subject motion has been set for a hearing or otherwise appears on the Court's calendar, a proposed order shall not be submitted unless requested by the Court.

(6) Form of Proposed Orders

(A) All proposed Orders shall be submitted in Times New Roman size 12 font.

(B) All proposed Orders in the case shall use the following caption:

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

In re **NAME OF DEBTOR(S)** Debtor(s).	**Case No. 0:00-bk-12345-ABC**

[1] Deviation from Mont. LBR 9013-1(k)(1) is necessary to comply with Microsoft Word's prohibition on utilizing the colon punctuation in a word document title.

(C) All proposed Orders in an adversary proceeding shall use the following caption:

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA

In re **JOHN DOE,** Debtor.	**Case No. 0:00-bk-12345-ABC**
ROGER TRUSTEE, Plaintiff. -vs- **JOHN DOE,** Defendant.	**Adv. No. 0:00-ap-78910-ABC**

(D) All proposed orders shall state with particularity the relevant law and/or rule upon which the moving party seeks the relief requested and include a brief statement explaining why the relief should be granted. *See* https://www.mtb.uscourts.gov/local-forms; *See also* Court's Guidelines on Proposed Orders for samples.

All forms of proposed orders submitted to the Court shall not include a signature line.

(l) **Attendance at Hearings.** Any party proposing or opposing a motion or application that does not intend to actively pursue or oppose the same shall immediately notify all attorneys of record, self-represented litigants, and Clerk so that the Court, all attorneys, and any self-represented litigants are not required to devote unnecessary attention to the matter or to appear in court. Unless excused by the Court, the failure of any party to attend a duly noticed hearing shall be deemed to waive the pleading, objection, or motion, and is deemed to consent to sustaining or granting the relief sought by the attending party.

(m) **Motion to Vacate or Amend an Order.** A motion under Fed. R. Bankr. P. 9023 or 9024 (or under Fed. R. Civ. P. 59 or 60) must be filed within 14 days from the date of the Order. Motions captioned as Motions to Reconsider shall be treated as Motions for Relief from a Judgment or Order and should set forth the grounds alleged to satisfy the criteria outlined in Fed. R. Bankr. P.

9023 or 9024 (or Fed. R. Civ. P. 59 or 60).

Related Authority:
11 U.S.C. §§ 102(1)(B)(i)
Fed. R. Bankr. P. 9007

RULE 9013-2. Briefs and Memoranda of Law.

(a) **Memoranda of Law.** Motions, responses to motions, objections, and responses to objections shall be supported by a memorandum of law filed with, or as a part of the motion, objection, or response, except as provided in subsection (b) below. Such memoranda shall be succinct and shall not exceed 15 pages without prior leave of the Court and include a concise statement of the facts and each basis for the pleading with relevant citations to legal authorities. Memoranda opposing the motion or objection shall be filed within 14 days after service of the motion or objection, or as otherwise directed by the Court and shall not exceed ten pages, without prior leave of the Court. Memoranda in support of or in opposition to motions for summary judgment shall not exceed 25 pages. Any reply memoranda by the party moving for summary judgment shall not exceed ten pages. Parties who cite authority not generally available on Westlaw shall provide a copy to the Court. [*See also* Mont. LBR 7056-1 for special requirements applicable when the memorandum of law is being filed in support of a motion for summary judgment.]

(b) **Motions Not Requiring Memoranda of Law.** Unless otherwise directed by the Court, memoranda of law are not required for the following motions:

(1) to obtain an extension of time, provided that the request is made before the expiration of the period originally prescribed by applicable rule, statute, order, or as extended by a previous order;

(1) to continue a pretrial conference, hearing, motion, or the trial of an action;

(3) to demand a more definite statement;

(4) to waive debtor's appearance at the meeting of creditors pursuant to 11 U.S.C. § 341;

(5) to amend the petition or schedules or statements;

(6) to affect a substitution of parties;

(7) all motions routinely granted under Mont. LBR 9013-1(i)(2);

(8) compelling turnover of property to trustee; or

(9) to modify the automatic stay under 11 U.S.C. § 362(a).

Related Authority:

Fed. R. Bankr. P. 7004 and 9014
Mont. LBR 7016-1

Comment:

Pursuant to Fed. R. Bankr. P. 7004(b)(9) and 9014(b), all motions directed to debtor, in addition to being served upon debtor's counsel, must be served upon debtor by mailing a copy of the motion "to the debtor at the address shown in the petition or to such other address as debtor may designate in a filed writing." Such service can be accomplished by First Class Mail, but debtor must be served as well as its counsel. Proof of service upon debtor is required.

RULE 9015-1. Jury Trials.

(a) **Applicability of Certain Federal Rules of Civil Procedure.** Fed. R. Civ. P. 38, 39, 47-51, and 81(c), insofar as they apply to jury trials, apply in all cases and proceedings in this Court, except that a demand made under Fed. R. Civ. P. 38(b) shall be filed in accordance with Fed. R. Bankr. P. 5005.

(b) **Consent to Have Jury Trial Conducted by Bankruptcy Court.** If the right to a jury trial applies and a timely demand has been filed under Fed. R. Civ. P. 38(b), parties may consent to have a jury trial conducted by the Bankruptcy Court under 28 U.S.C. § 157(e). Parties must jointly or separately file a statement of consent no later than 30 days after the date for demand. Failure to affirmatively file a consent to a jury trial shall be deemed a lack of consent.

(c) **Voir Dire.** Unless otherwise ordered, the Court shall conduct an interrogation of prospective jurors on *voir dire* examination. In its discretion, the Court may permit questions to be submitted in writing in advance of jury selection or orally at the side of the bar during *voir dire.*

(d) **Time for Filing a Demand for Jury Trial after Removal.** If, at the time of removal, all necessary pleadings have been served, a party entitled to a jury trial must demand one within 21 days after the Notice of Removal is filed; otherwise, within 21 days after service of the notice of filing of the Notice of Removal on the party entitled to a jury trial. A party making an express demand for trial by jury before removal, in accordance with federal or state law, need not make a demand after removal. If applicable state law in the court from which the case is removed does not require the parties to make express demands to claim a trial by jury, the parties must make demands after removal, in accordance with this paragraph, unless the Court directs them to do so within a specific time. The Court may make such a direction on its own motion and shall do so as a matter of course at the request of any party. The failure of a party to make a jury demand as directed under this sub-paragraph constitutes a waiver of trial by jury.

RULE 9018-1. Highly Sensitive Documents (HSDs)

A Highly Sensitive Document (HSD) is a document or other material that contains sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized way. Factors to be considered in making the determination include whether the

document involves matters of national security; foreign sovereign interests; cybersecurity; intellectual property or trade secrets; terrorism; public officials; or the reputational interests of the United States.

(a) To have a document filed as an HSD, a party must submit to the clerk's office a motion to treat a document as an HSD, the HSD sought to be filed, and a certificate of service. The required documents shall be submitted nonelectronically to the clerk's office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT."

(b) Upon receipt, the clerk's office will make an informational entry on the case docket indicating that an HSD motion was received and delivered to chambers.

(c) The Court will issue an order on the motion, and if granted, an informational entry will be made on the case docket indicating that the HSD has been filed with the Court. The clerk's office will maintain the HSD in a secure format outside CM/ECF. If the motion is denied, the filing party is responsible for filing the document under existing procedures outlined in these Local Rules.

Comment:

This Local Rule is specific to documents that satisfy the Highly Sensitive Documents (HSD) criteria. Please refer to Fed. R. Bankr. P. 9037 for how to file a document under seal that does not satisfy the criteria of Mont. LBR 9018-1.

RULE 9019-1. Alternative Dispute Resolution and Settlement Conferences.

The Court encourages the use of Alternative Dispute Resolution ("ADR") in any adversary proceeding or contested matter where the parties believe the contested issues may be resolved through ADR. The Court will discuss ADR with the parties during the case scheduling conference.

RULE 9019-2. Appointment of Settlement Judges

(a) Appointment Order. Upon a motion, oral request, stipulation, or sua sponte decision, the judge presiding over a particular adversary proceeding, bankruptcy case, or other bankruptcy-related matter may appoint another available active or recall status United States Judge from any judicial district to act as settlement judge to assist in possible resolution of disputes. The details regarding the appointment of a particular settlement judge will be specified in an appointment order issued by the presiding judge.

(b) Process for Appointment.

(1) Any request for appointment of a settlement judge must first be proposed to the presiding judge.

(2) If the parties propose the appointment of a particular other judge as a settlement judge, then the presiding judge may either contact the potential settlement judge (directly or through court staff) or request that the parties contact the potential settlement judge to confirm that such judge is willing and able to serve as settlement judge.

(c) Judicial Immunity and Other Protections.

(1) Any active or recall status judge appointed as a settlement judge will be so appointed because of a judicial position as, and to act in the specific capacity as a United States Judge. By serving as a settlement judge, such judge performs judicial duties. Accordingly, such judge and all persons assisting a settlement judge will have full, unqualified judicial immunity, as well as all other privileges, immunities, and protections of a United States Judge and judiciary employees, regarding any matters arising from or related to such judge's role as settlement judge.

(2) All parties participating in the settlement process will automatically:

(A) waive and be unable to assert any claims or causes of action against the settlement judge or any court employees assisting with the settlement process that arise from or relate to the settlement process; and

(B) waive and be unable to seek to compel from the settlement judge or from any court employees assisting with the settlement process any oral or written testimony, document production (including, without limitation, regarding any records, reports, summaries, notes, communications, or other documents received or made by the settlement judge or any court employees while serving in such capacity), or other participation whatsoever in any litigation, judicial, arbitral, or other proceeding of any kind.

(3) The settlement judge may, in the settlement judge's sole discretion, require that the parties sign an agreement memorializing the above understandings before agreeing to serve as a settlement judge.

(d) Disqualification. No judge may serve as a settlement judge if that judge would be disqualified under 28 U.S.C. § 144 if that judge were a district judge presiding over the matter or proceeding or under 28 U.S.C. § 455 if that judge were a justice, judge, or other judicial officer presiding over the matter or proceeding, in each case unless the parties consent in writing after disclosure.

RULE 9022-1. Notice of Judgment or Order.

Pursuant to Fed. R. Civ. P. 5(b), the Court may serve notice of entry of a judgment or order through several methods, including electronic means, upon an entity's consent, by using the Court's transmission facilities wherein the notice of electronic filing generated by CM/ECF (which contains a hyperlink to the filed document) shall constitute service of the order or judgment.

RULE 9029-1. Local Rules.

(a) **Matters Not Covered by Local Rules.**

(1) **Consistent Practice.** In any matter not covered by these Local Rules, the Court may regulate practice in any manner not inconsistent with the Fed. R. Bankr. P. and the Fed. R. Civ. P.

(2) **Suspension of Rules.** The Court, upon its own motion or the motion of any party, may change or dispense with any of these Local Rules in the interests of justice.

(3) **Good Cause.** A motion for waiver of these Local Rules may be approved if the moving party demonstrates good cause for a waiver.

(b) **District Court Authorization to Amend.** By a majority, the U.S. District Court Judges of the District of Montana authorize by their approval of these Local Rules the Bankruptcy Judge of the District to make and amend rules of practice and procedure pursuant to Fed. R. Civ. P. 83, but not duplicative of Acts of Congress, and the Fed. R. Bankr. P. and which do not prohibit or limit the use of the Official forms. This authorization is provided pursuant to Fed. R. Bankr. P. 9029(a).

RULE 9036-1. Notice by Electronic Transmission.

The Clerk will provide electronic noticing agreements through the judiciary's Bankruptcy Noticing Center ("BNC") to any person requesting this service. The terms and procedures for electronic noticing are detailed in the Court's noticing agreement provided by the Clerk and available on the Court's website at www.mtb.uscourts.gov.

RULE 9037-1. Privacy Protection for Filings Made with the Court.

Fed. R. Bankr. P. 9037 applies in all cases and adversary proceedings, including all exhibits or other documents filed with the Court.

EFFECTIVE DATE

These Local Rules shall be in force and effect in the United States Bankruptcy Court for the District of Montana from and after **December 1, 2026**, and shall supersede all former Local and Interim Rules and General Orders of the Court.

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CHIEF BANKRUPTCY JUDGE

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