

To: Bankruptcy Section Members, State Bar of Montana  
 From: BPH  
 Re: Local Bankruptcy Rules  
 Date: December 15, 2022

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The Local Rules Committee provided the Court with proposed revisions to the existing local rules. The proposed changes were the subject of a comment period. In many cases the comments received were valuable and noted an inconsistency or item that might be well served by further clarification. In other cases, the comments were more substantive, such as commenting that the presumed reasonable fee in chapter 13 has not been considered for an extensive period of time, and an increase may be appropriate. Having considered the work of the Local Committee and the comments, amendments to the Local Rules have been adopted. Following is a summary of the changes to rules and forms.

Summary of Changes

Mont. LBR	Changes Summary
1001-1(e)	Comma removed.
1002-1(a)	Updated language from “Official Form 1” to “Official Form 101.”
1002-1(d)	New subpart intended to address those circumstances where a debtor lacks capacity and their pleadings are filed by another individual.
1006-1(b)(2)	Change to procedure for dismissing cases when a debtor fails to make an installment payment.
1007-1(a)	Deletion of superfluous language.
1007-1(d)	Updated title of subpart to better reflect new language regarding incomplete filings and dismissal of cases. New language inserted to clarify the procedures for Court’s actions following filing deficiencies. Language removed regarding request for Court’s reconsideration following cure of deficiencies. Language removed regarding prohibition of refiling petition within 180 days of dismissal under 1007-1(d).
1007-1(e)	Language from 1007-1(d) moved to 1007-1(e). The language specifies that the Court will automatically deny a motion for extension of time filed after the notice of pending dismissal, absent a showing of extraordinary circumstances beyond a debtor’s control.
1007-1(f)	Language added to specify that a debtor should keep original documents for five years following the filing of debtor’s petition in accordance with the statute of limitations for the bankruptcy fraud provisions of 18 U.S.C. § 151, et. seq.
1007-1(g)	Deletion of entire subpart. The language previously in 1007-1(h) is now located in 1007-1(g).
1007-2(a)(1)	Updated language to be clearer and more concise. Updated requirements for filing a master mailing matrix.
1007-2(c)	New dismissal procedures following a debtor’s failure to file the master mailing list. New procedure directs the Clerk to file notice to file mailing list

	within 7 days or a debtor risks dismissal. Removed language allowing 48 hours to file mailing list following a debtor's failure to file with the petition.
1009-1(a)(3)	Language added to clarify that when a debtor makes amendments that add creditors or parties, the notice required in 1009-1(a)(1) shall explain the additions so that the Clerk can update the mailing matrix. Updated language from "schedules" to "schedule."
1009-1(d)	Language streamlined and clarified.
1015-1(b)	Comma removed.
1017-(a)	Language changed from "is" to "are."
1017-1(b)	Comma added.
1020-1	Rule added: Chapter 11 Reorganization Case for Small Business Debtors or Debtors Under Subchapter V. Subparts: (a) Debtor Designation; (b) Objecting to Designation; (c) Procedure for Objection or Determination; Comment.
2002-4	Language revised regarding notice and certificate of service. Language added to specify a notice period of 21-days.
2003-1	Deletion of superfluous language.
2003-3	Deletion of superfluous language. Added subheaders.
2003-4	Language revised: "U.S. Trustee" changed to "case trustee." Information in Comment updated regarding Trustee's calendar and how to view the 341 calendar.
2003-5(b)	Language removed that required a debtor to sign a declaration at time of 341 meeting.
2003-7	Comma removed. Language revised: "U.S. Trustee" changed to "case trustee."
2007-1	Removed rule (previously repealed).
2014-1(b)	Second paragraph in 2014-1(a) and given new subsection in 2014-1(b).
2016-1(a)	Language added to specify that section (Application for Compensation of Professionals) does not apply to applications for post-petition attorney's fees and costs under 11 U.S.C. § 506(b).
2016-1(b)	Language moved into umbrella portion of (b) to specify that <i>debtor's attorney</i> must meet the three requirements for presumption of reasonableness of Ch. 13 attorney's fees.
2016-1(b)(3)	Language clarified. The amount of Ch. 13 debtor's attorney's fees presumptively deemed reasonable raised from \$4,000.00 to \$6,000.00.
2016-1(f)	Reference to 11 U.S.C. § 506(b) inserted. Case cite to <i>In the Matter of Lehua Hoopai</i> , 581 F.3d 1090, 1098 (9th Cir. 2009) moved to comments. Inserted list of conditions & factors that applications for claims for fees by creditors need to meet.
2090-2	Rule added: Self-Represented Litigants. Section specifies conduct, requirements, allowed/disallowed actions with Clerk's office/parties for service.
2090-3	Rule number updated from 2090-2.
2090-4	Rule number updated from 2090-3.
2090-5	Rule number updated from 2090-4.
2090(5)(c)	Comma added.
2090-6	Rule number updated from 2090-5.

3007-1	Comma added.
3011-1	Rule added: Unclaimed Funds. Rule explains how to apply for disbursement of unclaimed funds that have been deposited with the Clerk and the Clerk's procedure for disbursement.
3015-1	Comma removed.
3015-2(a)	Language revised to incorporate Mont. LBF 41 and specify plan amendment procedure.
3015-2(b)	Language revised regarding notice and certificate of service.
3017-2	Rule added: Amendments to Subchapter V Plans Prior to Confirmation Hearing to Address Plan Objections. Incorporates Mont. LBF 41 and specifies plan amendment procedure.
3017-3	The language previously in 3017-2 is now located in 3017-3.
3018-1	Rule added: Chapter 11 Ballots-Voting on Plans. Rule explains the process for filling out ballots, where to send them, applicable timelines, and service requirements. The Rule also sets forth requirements for summaries of such ballots in subparts (a)-(d).
4001-1(a)	Language removed that previously required a proposed order to be filed with every Motion to Modify, in accordance with newly added Rule 9013-1(j).
4001-1(c)	Comma added.
4003-3	Comma added. Language removed that required a proposed order to be filed with every Objection to Claim of Exemption.
4003-4	Language removed that required a proposed order to be filed with every Motion to Avoid Lien, in accordance with newly added Rule 9013(j).
4004-1	Language revised to encompass Ch. 11 Subchapter V discharges.
4004-1(a)	New subsection added clarifying Ch. 11 Subchapter V discharge procedure.
4004-1(b)	The language previously in 4004-1(a) is now located in 4004-1(b).
4004-1(c)	The language previously in 4004-1(b) is now located in 4004-1(c).
4004-1(d)	The language previously in 4004-1(c) is now located in 4004-1(d).
4004-1(e)	New subsection added. Attorney Certification - Chapter 11, Subchapter V.
4004-1(f)	The language previously in 4004-1(d) is now located in 4004-1(f). Removed reference to § 521.
4004-1(g)	The language previously in 4004-1(e) is now located in 4004-1(g). Removed reference to § 521.
4004-(h)	The language previously in 4004-1(g) is now located in 4004-1(h). Language added requiring the Ch. 13 Trustee's Notice of Completion of Plan Payments to be filed before a debtor may file a Motion for Entry of Discharge.
4004-(i)	The language previously in 4004-1(h) is now located in 4004-1(i).
5001-1	Language updated from "Rule 5005-1" to "Mont. LBR 5005-1." The mailing address has been corrected to read "Room 263."
5001-2(a)	Oxford comma added in list of division counties.
5001-2(b)	Oxford comma added in list of division counties.
5001-2(c)	Oxford comma added in list of division counties.
5001-2(d)	Oxford comma added in list of division counties.
5005-1	Deletion of superfluous language.
5005-2(a)(1)	Hyphen added between "11" and "inch."

5005-2(a)(2)	Hyphen added between “12” and “point.”
5005-2(a)(3)	Hyphen added between “one” and “inch.”
5005-2(b)(4)	Subsection deleted. Rule 5005-2(b)(5) updated to (b)(4).
5005-2(b)(5)	Subsection (b)(6) updated to (b)(5).
5005-2(b)(6)	Subsection (b)(7) updated to (b)(6).
5005-2(c)	Comma added.
5011-1(b)	Deletion of superfluous language.
5011-1(c)	Deletion of superfluous language.
5071-1(c)	Comma added.
5072-1	Rule name changed from “Courtroom Decorum” to “Decorum in all proceedings.”
5072-1(a)	Language inserted from 5072-1(d) to specify that <i>all</i> persons in the courtroom shall be treated with dignity and respect.
5072-1(b)	Language added to clarify that all persons “attending in person” shall stand to address the Court.
5072-1(d)	Language deleted and moved to 5072-1(a) specifying specify that <i>all</i> persons in the courtroom shall be treated with dignity and respect.
5072-1(g)	Language added, “Whether appearing remotely or in person” to dress code. Subsections added to set procedure, conduct, and dress code standards for appearing remotely.
5073-1(a)(2)(E)	Language updated: “video recording” changed to “videorecording.”
5073-1(a)(2)(F)	Language updated: “video recording” changed to “videorecording.”
5073-1(a)(2)(G)	Language updated: “video recording” changed to “videorecording.”
5073-1(c)	Changed the “c” in “courthouse” to lowercase.
5073-1 Comment	Mont. LBR 5073-1 added for clarity in comment.
5074-1(a)	Section created from former non-numbered section. Language removed about requiring in-person hearing in conformity with Mont. LBF 26.
5074-1(b)	Section added: (b) Expedited Hearings. Section includes language about Court’s discretion to grant or deny requests to hear matters on an expedited basis, and service requirements for the order of such grant or denial.
5074-1(c)	Section added: (c) Appearance by Video. Section includes language about procedures to appear by video, timing requirements, and exhibit requirements.
5074-1(d)	Section added: (d) Recording Virtual Proceedings Prohibited. Section language specifies that only the Court may record virtual proceedings. Parties are prohibited from doing so.
5074-1(e)	Section added: (e) Additional Information to be Provided for Remote Witnesses. Section language includes information required to be provided by parties for witnesses who appear remotely. The information required, among other things, includes name, location, place, and whether witness will have access to documents other than exhibits.
5074-1(f)	Section updated from (c) to (f).

5074-1(f)(4)	Subsection added with language that requires impeachment exhibits to be disclosed to the Court and opposing counsel at least three days before a hearing. The subsection also includes language requiring passwords to access PDF impeachment exhibits.
5074-1(f)(5)	Subsection (f)(4) updated to (f)(5).
5074-1(f)(6)	Subsection (f)(5) updated to (f)(6).
5074-1(g)	Section added: (g) Testimony by Remote Witnesses. Section language includes procedures for oath, requirements on who can be present with witnesses in room while on camera, no communication allowed with witnesses during testimony, what a witness is allowed to have before them during remote testimony, and identification procedures. The section notes remedial and penal actions Court can take if 5074-1(g) rules are not followed.
5077-1	Rule added: Availability of Audio Files of Court Proceedings on the Public Docket. Section language states that digital recordings of Court proceedings will be made available on the public docket but are not considered official record. The rule clarifies the manners in which the recordings can be used.
6004-1	Notice requirement for a proposed sale increased from 14 to 21 days. Language added to require the inclusion of information set forth in Fed. R. Bankr. 2002(c)(1). Language added to emphasize that notice period may be changed for good cause shown. Language removed that previously required a proposed order to be filed with every Notice of Proposed Sale in accordance with newly added Rule 9013-1(j).
6006-1(a)	Language removed that previously required a proposed order to be filed with every Motion for Assumption or Rejection of an Executory Contract or Unexpired Lease, in accordance with newly added Rule 9013-1(j).
6007-1	Language referencing Fed. R. Bankr. P. 9006(c)(1) removed. Language removed that previously required a proposed order to be filed with every Notice of Proposed Abandonment in accordance with newly added Rule 9013-1(j). Language added that allows for debtor or trustee to abandon property without Court order if no objections exist.
7005-1	All-caps format removed from “Fed. R. Civ. P.”
7016-1(b)(3)	Comma added.
7026-1(a)	Comma removed.
7026-1(d)	Comma removed.
9003-1	“Fed. R. of Bankr. P.” changed to “Federal Rules of Bankruptcy Procedure.”
9004-1	Language added to clarify required format for case numbering/naming in pleadings. Language removed requiring filings to state bankruptcy chapter number in case number. Initials of presiding bankruptcy judge now required.
9013-1(d)(2)	Language added to specify that a relied upon mailing matrix must be attached to a document.
9013-1(e)	Comma added in “Notice of Opportunity to Respond and Request a Hearing” language.
9013-1(h)(2)	The following were removed from “Matters the Court will Routinely Grant or Deny, with the Right to Request a Hearing”: (E) Extending the Time to File Dischargeability Complaint; (G) Extending Time to Object to Discharge; (GG) Motion to Extend Time to File Objections to Claims of Exemption

	under Fed. R. Bankr. P. 4003(b). Added “(HH) Motion to Shorten Notice under Fed. R. Bankr. P. 9006(c)(1).” Comma added to updated subpart (J). Added language clarifying that movants shall submit a proposed order when filing a motion governed by 9013-1(h)(2).
9013-1(j)	Language in section added to reflect the procedures for submitting proposed orders, specific requirements when submitting proposed orders, including conformance with LBF 43, when proposed orders should be submitted, the assumption of completion of service when a proposed order is filed, and the form of proposed orders (including caption, headings, format, etc.). Language removed concerning old procedure for when the Court will accept proposed orders.
9013-2(b)	Language updated: “effect” changed to “affect.”
9014-1	“F.R.B.P” changed to “Fed. R. Bankr. P.”
9018-1	Rule added: Highly Sensitive Documents (HSDs). Language added includes distinction for when a document is considered a HSD, and factors to help determine so. Sections added include procedures for Clerk’s office treatment of HSDs and the Court’s actions for HSDs.
9036-1(a)	Section removed.
9036-1	Former Rule 9036-1(b) updated to have no numbering. The word “electronic” added in “[t]he Clerk will provide <i>electronic</i> noticing agreements . . .”
9037-1	Punctuation correction in title of rule. Effective date of Local Rules language changed to “December 1, 2022.”

Mont. LBF	Changes Summary
18	Notice period updated from “fourteen (14) days” to “twenty-one (21) days” in accordance with Mont. LBR 2002-4.
41	New form: DEBTORS’ NOTICE OF INTENT TO AMEND PLAN, MOTION TO CONTINUE HEARING, AND REQUEST TO SET NEW DEADLINES. In accordance with Mont. LBRs 3015-2(a) and 3017-2, if a debtor chooses to amend their Chapter 11 Subchapter V, Ch. 12, or Ch. 13 Plan, LBF 41 provides notice of the intent to amend, continues the hearing on plan confirmation, and sets new deadlines for the filing of the amended plan, objections to the amended plan, and a new hearing date on confirmation.
42	New form: MOTION FOR ENTRY OF DISCHARGE; AND ATTORNEY CERTIFICATION (CHAPTER 11 SUBCHAPTER V). In accordance with Mont. LBR 4004-1(a)(2), a debtor shall file LBF 42 upon the completion of a Chapter 11 Subchapter V Plan confirmed under § 1191(b), certifying all payments under the plan have been made.
43	New form: CERTIFICATE OF NO OBJECTION. In accordance with Mont. LBR 9013-1(j)(2), a movant shall file LBF 43 certifying that the applicable response or objection period to the motion has expired (including any additional time afforded to parties receiving service via mail under Fed. R. Bankr. P. 9006(f)) and no timely responses or objections to the motion have been filed.