

**NOTICE OF AMENDMENT OF THE LOCAL RULES OF PRACTICE AND
PROCEDURE OF
THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF KANSAS**

The United States Bankruptcy Court for the District of Kansas gives notice of Proposed Local Rules of Practice and Procedure.

The Proposed Local Rules amend the present Local Rules as recommended by the Bench and Bar Committee of the United States Bankruptcy Court for the District of Kansas with the approval of the Court.

Interested persons, whether or not members of the bar, may submit comments on the Proposed Local Rules addressed to the Clerk of the United States Bankruptcy Court for the District of Kansas at 401 N. Market, Room 167, Wichita, Kansas 67202. All comments must be in writing and must be received by the Clerk no later than January 1, 2010, to receive consideration by the Court.

Copies of the Proposed Local Rules will be available for review by the bar and the public from December 1, 2009 through December 31, 2009 at:

Wichita Clerk's Office
167 U.S. Courthouse
401 North Market
Wichita, KS 67202

Topeka Clerk's Office
240 U.S. Courthouse
444 Southeast Quincy
Topeka, KS 66683

Kansas City Clerk's Office
161 U.S. Courthouse
500 State Avenue
Kansas City, KS 66101

Available on www.ksb.uscourts.gov

Copies of the Bench and Bar Committee Minutes, at which most of the proposed changes were discussed, are also available at www.ksb.uscourts.gov.

LBR 1001.1

SCOPE AND MODIFICATION OF RULES; CITATION

(a) **Authority.** These supplemental rules are promulgated under the authority of Fed. R. Bankr. P. 9029 and D. Kan. Rule 83.8.12. ~~To the extent not provided by more specific Fed. R. Bankr. P. or D. Kan. LBR, practice~~ Practice before this court is governed by applicable D. Kan. Rules, **unless there is a more specific Fed. R. Bankr. P. or D. Kan. LBR.** See D. Kan. Rule 83.8.2.

(b) **Citation.** These rules ~~are~~ **should be** cited as D. Kan. LBR 1001.1, ~~e.g. et seq.~~ All statutory references are to the Bankruptcy Code, 11 U.S.C. § 101, *et seq.*, unless otherwise specified.

(c) **Modification.** These rules ~~are, in~~ **In** special cases, ~~subject to such modification as the court may deem~~ **modify these rules as** necessary or appropriate ~~to meet emergencies or to avoid injustice or great hardship.~~

(d) **Revision information.** Effective with the rule revisions in March, 2005, any rule that is **substantively** revised will indicate its last revision date.

(e) **Effective Date.** All rules are effective for all cases, whenever filed, unless otherwise stated.

* * *

As amended **3/17/2010**, 3/17/09, 10/17/05, 3/17/05.

LBR 1004.1

PARTNERSHIP AND CORPORATE PETITIONS

No party may combine ~~The the~~ petition of a partnership or corporation ~~must not be combined~~ with the petition of any individual or other entity.

* * *

As amended 3/17/10.

LBR 1005.2

CAPTIONS; CASE NUMBERING SYSTEM

(a) **Captions.** In addition to meeting the requirements of Fed. R. Bankr. P. 1005 and ~~Bankruptcy~~ Official Form 16A or 16B, as applicable, the caption of each petition must state the full and correct name of the debtor, ~~whether individual, partnership, or corporation.~~

(b) **Case Numbering System.** ~~The clerk assigns~~ Each ~~each~~ case when filed is assigned a number by ~~the clerk~~, which begins with a two-digit indicator of the year in which the case was filed, followed by a hyphen and the **five digit** individualized case number ~~of five digits~~. The five-digit individualized case numbers are as follows:

- Kansas City cases **begin with** "2", e.g., ~~09~~**10**-20001;
- Topeka cases **begin with** "4", e.g., ~~09~~**10**-40001; and
- Wichita cases **begin with** "1", e.g., ~~09~~**10**-10001.

* * *

As amended **3/17/10**, 3/17/05.

LBR 1006.1

FILING FEES

~~Installment~~ **The court may permit** payment of filing fees ~~may be permitted by the court~~ **in installments** as provided by Fed. R. Bankr. P. 1006. ~~Waiver of~~ **The court may also waive** filing fees ~~may also be permitted in a case filed under Chapter 7 cases,~~ as provided in Fed. R. Bankr. P. 1006. The clerk will not accept checks issued by a debtor for filing fees.

* * *

As amended **3/17/10**, 10/17/05

LBR 1007.1

INITIAL FILINGS

(a) **Assembly of Petition and Accompanying Documents.** ~~Conventionally filed petitions (i.e., those not filed electronically, usually by pro-se debtors)~~ **Petitions**, schedules and statements of affairs, and lists of creditors **not filed electronically (e.g., by unrepresented debtors)** must conform to the Official Bankruptcy Forms and **must** be printed on **only** one side of the paper **only**. ~~No original~~ **Original** documents and

pleadings filed with the court shall ~~may not~~ be stapled.

(1) ~~Parties must assemble~~ ~~Voluntary~~ ~~voluntary~~ petitions and accompanying documents, if applicable, ~~must be assembled~~ in the following order:

- (A) petition (Official Form 1 and any accompanying exhibits);
- (B) statement of financial affairs (Official Form 7);
- (C) list of creditors holding 20 largest unsecured claims (Official Form 4, only in Chapter 11);
- (D) schedules A through J (Official Forms B-6A thru B-6J, inclusive);
- (E) summary of schedules (Official Form B-6-Summary, Cover Sheet);
- (F) statistical summary of certain liabilities (Official Form B-6-Summary~~2~~, Cover Sheet);
- (G) declaration concerning debtor's schedules (Official Form ~~B-6-Declaration~~);
- (H) Chapter 7 individual debtor's statement of intention (Official Form B-8);
- (I) Rule 2016(b) statement of attorney compensation (Procedural Form B-203);
- (J) statement of current monthly income and means test calculation (~~Procedural~~~~Official~~ Form B-22A, in Chapter 7);
- (K) statement of current monthly income (~~Procedural~~~~Official~~ Form B-22B, in Chapter 11);
- (L) statement of current monthly income and disposable income calculation (~~Procedural~~~~Official~~ Form B-22C, in Chapter 13);
- (M) declaration and signature of non-attorney bankruptcy petition preparer (~~Procedural~~~~Official~~ Form 19A);
- (N) notice to debtor by non-attorney bankruptcy petition preparer (~~Procedural~~~~Official~~ Form 19B);
- (O) for a ~~small business~~ case filed under Chapter 11, ~~and for which the debtor elects small business status~~, the most recent balance sheet, statement of operations, cash-flow statement, and Federal income tax return; or a statement made under penalty of perjury that no balance sheet, statement of operations, or cash-flow statement has been prepared and no Federal tax return has been filed; and
- (P) certificate required under § 521(a)(1)(B)(iii)(I) or (II) (Procedural Form 201).

(2) The following documents, if applicable, must **not** be attached to the petition:

- (A) ~~application~~ **Application** to pay filing fees in installments (Official Form 3A);
- (B) ~~application~~ **Application** for waiver of Chapter 7 filing fee (Official Form 3B);
- (C) matrix and matrix verification;
- (D) the plan (if submitted when petition is filed in Chapters 11, 12 and 13);
- (E) ~~Procedural Form B-21~~ Statement of Social Security Number (**Official Form 21**);
- (F) ~~a~~ Declaration Regarding Payment Advices or Evidence of Payment under 11 U.S.C. § 521(a)(1)(B)(iv), in compliance with Appendix 1-01 to **D. Kan. LBR 1007.1**, that the debtor has **either** not been employed by any employer within the 60 days before filing of the petition, **or** that the debtor was employed within the 60 days, but has not received payment advices or other evidence of payment, or that copies of payment advices or other evidence of payment are attached (with all but the last four numbers of the debtor's Social Security Number redacted);
- (G) a record of any interest that the debtor has in an account or program of the type specified in § 521(c); and
- (H) a certificate for credit counseling and debt repayment plan, if any, a certification under § 109(h)(3), or a request for determination by the court under § 109(h)(4).

(3) Electronically filed petitions must follow the same order as listed in paragraph (a)(1) above, except that **counsel must conventionally submit** the Declaration Re: Electronic Filing ~~must be conventionally submitted~~ in lieu of **Official Form B-21**.

(b) Creditors' Schedules. ~~Creditors~~ ~~Debtors~~ must be listed **creditors** alphabetically with the full address of each, including post office box or street number, city or town, state and zip code. If ~~it is the debtor known~~ ~~knows~~ that ~~the an~~ account or debt, including any applicable domestic support obligation, as that term is defined in § 101(14A), has been assigned or is in the hands of an attorney or other agency for collection, the full name and address of ~~such the~~ assignee or agent must be ~~set forth~~ **listed**, but without twice extending the dollar amount of the debt. Each entry required by this subsection must be separated by two spaces from the next ~~succeeding~~ entry. If an agency of the United States or the State of Kansas is listed as a creditor, the agency must be ~~noticed~~ **listed** as ~~provided by~~ **D. Kan. LBR 2002.2 provides**.

As amended 3/17/08, 3/17/07, 10/17/05, 3/17/05.

Appendix 1-01 to LBR 1007.1(F)
(Must be filed by every individual debtor)

UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS

In Re:)
)
Debtor(s)) Case No.

DECLARATION REGARDING PAYMENT ADVICES OR EVIDENCE
OF PAYMENT UNDER 11 U.S.C. § 521(a)(1)(B)(iv)

I declare (or certify, verify, or state) under penalty of perjury that the following is true and correct (CHECK ONE OF THESE BOXES):

I have not been employed by any employer within the 60 days before the date of the filing of the petition.

I was employed by an employer within 60 days before the date I filed my bankruptcy petition, but I have not received payment advices or other evidence of payment - because _____

I have received payment advices or other evidence of payment within 60 days before the date I filed my bankruptcy petition from any employer, and they are - attached, except _____

Executed on _____ (date) by _____ (debtor)

LBR 1007.2
PREPARATION AND FILING OF MATRIX

(a) General Requirements. A ~~conventionally~~ **matrix not electronically** filed ~~matrix~~ must be prepared in accordance with the following guidelines as follows:

(b) Matrix Required. An optically scannable creditor(s) matrix, signed and verified as provided in Fed. R. Bankr. P. 1008, is required when:

- (1) a new case (all chapters) is filed,
- (2) an amendment to a case (all chapters) is filed containing additional creditors. This matrix must list only those additional creditors added to the amendment to schedules.

(c) Original. ~~Matrices~~ **A matrix** must be an original printed document on standard bond paper, ~~which that~~ is free of lines, marks, or smudges.

(d) Fonts/Typefaces. ~~Matrices~~ **Parties** must be ~~prepared~~ **prepare matrices** in one of the following standard typefaces or print styles: Courier 10 pitch, Prestige Elite 12 pitch, or Letter Gothic 12 pitch. Character pitch must match character spacing. Do not use proportional spacing. Dot matrix printer fonts are not scannable and will not be accepted.

(e) Format. ~~Matrices~~ **Parties** must be typed **type matrices** in a single column with ~~each line~~ left **line justified justification**. ~~Addresses must be~~ **A matrix must list addresses** in a single column in order for the optical character reader to **automatically** scan the material ~~automatically~~ from left to right, line by line.

(f) Lines. Each name/address must consist of no more than five lines with the city, state, and zip codes located on the last line. Do not type "attention" lines or account numbers on the last line. If needed, this information ~~is to~~ **should** be placed on the second line of the name/address. ~~There must be a~~ **At** least one blank line **must be placed** between each of the name/address blocks.

(g) **Postal Codes.** All states ~~state names~~ must be ~~represented by the~~ two-letter abbreviations (both letters capitalized) ~~and in conformance with~~ authorized by the U.S. Postal Service abbreviations.

(h) **Margins.** Lists must be typed so that no ~~not contain~~ letters are closer than one inch from any edge of the document.

(i) **Line Length.** The name line must not exceed 50 characters ~~in length~~. Subsequent lines must not exceed 40 characters ~~in length~~.

(j) **Punctuation.** In ~~conformance~~ ~~conformity~~ with U.S. Postal Service guidelines, ~~all addresses should be devoid of~~ ~~must exclude~~ punctuation, e.g., ~~including~~ periods, or commas, ~~any and all~~ or special characters, e.g., ~~including~~ #, %, /, and (), except the hyphen in the ZIP+4 code.

(k) **Excluded Names.** Do not include the debtor, joint debtor, attorney for debtor, trustee, or United States trustee on ~~matrices~~ ~~the matrix~~. ~~They~~ ~~The computer~~ will be retrieved automatically ~~retrieve them~~ by the computer for noticing. The name of the debtor ~~should~~ ~~must~~ be listed on the reverse side of each page for identification purposes.

(l) **Alphabetical Order.** All creditors ~~are to~~ ~~must~~ be alphabetized ~~listed in alphabetical order~~.

(m) **Duplication.** Do not duplicate names and addresses.

* * *

~~As adopted~~ ~~Adopted~~ 3/17/2008.

LBR 1009.1
AMENDMENTS TO LISTS AND SCHEDULES OF
CREDITORS AND APPLICABLE DEADLINES

(a) **Notice.** Debtor must serve amendments to Schedules D, E, F, G or H and matrices on ~~any entity~~ affected ~~entities~~ ~~by the amendment~~, the ~~case~~ trustee and the United States trustee, with a notice in compliance with Appendix 1-01.

(b) **Verification.** ~~An Debtor must sign and verify an~~ amendment ~~must be signed and verified~~ in the same manner required for originals.

(c) **Filing Fees.** ~~An Debtor must accompany an~~ amendment to schedules or lists of creditors ~~must be accompanied by~~ ~~with~~ the applicable filing fee as prescribed by the Administrative Office of the United States Courts ~~as of the~~ ~~in effect on the~~ date of the filing of the amendment ~~is filed~~.

* * *

As amended 10/17/05.

Appendix 1-01 to LBR 1009.1

UNITED STATES BANKRUPTCY COURT
DISTRICT OF KANSAS

In Re:)
) Case No.
Debtor(s))

NOTICE OF AMENDMENT OF SCHEDULES D, E, F, G OR H
(ADDITION OF CREDITOR(S))

You are ~~hereby~~ notified that the debtor(s) ~~has~~ filed the attached amended schedule(s) of debt to include the creditor listed below. Debtor's counsel ~~shall~~ ~~must~~ also separately provide you a copy of the debtor(s)' full Social Security Number.

1. Creditor (name and address): _____
2. Claim (amount owed, nature of claim, date incurred):

3. This claim ~~has been~~ ~~is~~ scheduled as (Check one box):
[] secured; [] priority; [] general unsecured.
4. Trustee, if one has been appointed: _____
5. Original deadline for filing proofs of claim: _____
6. Deadline for filing complaints objecting to discharge of specific debts or of debtor under 11 U.S.C. §-523, 727 [Date]:

_____ or

_____ This claim was added to the schedules after the deadline for filing complaints stated above.

Check applicable provision(s) below:

- _____ This is a no-asset case. It is unnecessary to file a claim now. If it is determined there are assets to distribute, creditors will receive a notice setting a deadline to file claims.
- _____ This claim was added to the schedules after the deadline for filing claims stated above.
- _____ This is a Chapter 13 case. You have until the bar date to file your proof of claim.
- _____ A plan in this case was confirmed on [Date].
- _____ No plan has been confirmed in this case, but a confirmation hearing is currently set for [Date] at [Location]. Since the amendment was filed too late to give notice, you may file an objection to either confirmation of the plan or the amendment to the schedules by [Date]. If an objection is timely filed, a non-evidentiary preliminary hearing will be scheduled and notice provided by the clerk ~~upon~~ after expiration of the deadline date.

Attorney for Debtor(s) (type name and address)

Certificate of Service: I, _____, certify the above notice and a separate notice of the full Social Security Number of the debtor(s) was served on the above-named creditor by first class, postage prepaid mail, on _____.

(Signature above)

* * *

As amended 10/17/05, 3/17/05.

**LBR 1072.1
COURT LOCATIONS**

The United States Bankruptcy Court for the District of Kansas is in continuous session for transaction of judicial business on all business days throughout the year at the Kansas City, Topeka, and Wichita divisions. The court may conduct special sessions of court at other locations within the district.

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**LBR 1073.1
ASSIGNMENT OF CASES**

(a) **Initial Assignment of Cases.** The clerk ~~will assign~~ assigns cases to the Kansas City, Topeka, and Wichita divisions, ~~respectively~~, based on where the commencement filing is made ~~case is filed~~.

(b) **Reassignment of Cases.** A bankruptcy judge, in the interest of justice or to further the efficient disposition of court business, may return a case in whole or in part to the clerk for reassignment to another bankruptcy judge as directed by the Chief Bankruptcy Judge.

(c) **Judicial Business.** ~~Administration~~ The Chief Bankruptcy Judge is responsible for the administration of the judicial business of the court ~~is the responsibility of the Chief Bankruptcy Judge~~.

* * *

**LBR 2002.1
NOTICE TO CREDITORS AND
OTHER INTERESTED PARTIES**

(a) **General.** ~~Notices served by the clerk are generally mailed by the~~ The Bankruptcy Noticing Center (“BNC”) ~~will generally mail all notices served by the clerk~~.

(b) **Undelivered notices.** ~~All~~ The clerk will deliver all undelivered notices ~~shall be delivered to the debtor(s)'~~ debtor's attorney except in cases where the debtor(s) are ~~is~~ not represented by counsel. ~~Such~~ Debtor's counsel must retain the notices ~~shall be retained by debtor(s)' counsel~~, in paper or as a scanned electronic image, for the same period required by *Administrative Procedures for Filing, Signing, and*

Verifying Pleadings and Documents by Electronic Means (see D. Kan. LBR 5005.1 and related appendix). The clerk will retain notices ~~in cases where~~ **the debtors are is** not represented. **The BNC will return Undelivered undelivered** notices in Adversary Proceedings ~~will be returned to the clerk's office.~~

(c) **Corrections.** A matrix that does not comply with ~~the requirements of~~ D. Kan. LBR 1007.1 or D. Kan. LBR 1007.2 may cause certain notices to be undeliverable by the BNC. The clerk, or some other person ~~as the court may direct~~ **directs**, will notify the debtor's attorney, or the debtor if not represented, of any undelivered notices, together with the underlying matrix deficiency (e.g., incomplete address, missing zip code). Within ~~five~~ **7** days after notification, the debtor's attorney, or the debtor if not represented, must:

- (1) file the corrected BNC Bypass Notice; and
- (2) serve any undelivered notices to all parties not served by the BNC.

(d) **Preferred Addresses and National Creditor Register Service in Chapter 7 or 13 cases filed after October 16, 2005 under 11 U.S.C. § 342(e) and (f).**

(1) Pursuant to 11 U.S.C. § 342(e) and (f), an entity and the BNC may agree that when the ~~BNC is directed by the court~~ **directs the BNC** to give a notice to that entity, the BNC ~~shall~~ **will** give the notice ~~to the entity~~ in the manner agreed to and at the address or addresses the entity supplies to the BNC. That **supplied** address is conclusively presumed to be a proper address for ~~the~~ notice. The BNC's failure to use the supplied address does not invalidate any notice that is otherwise effective under applicable law.

(2) ~~The A creditor's~~ filing of a notice **directly with the BNC** of **its** preferred address pursuant to 11 U.S.C. § 342(f) ~~by a creditor directly with the BNC~~ will constitute ~~the a~~ filing of ~~such a~~ **the** notice with the court.

(3) Registration with the National Creditor Registration Service must be accomplished through the BNC. Forms and registration information is available at <http://ncrs.uscourts.gov>.

(4) A local form ~~for to use by creditors in~~ **when** filing notice of preferred address under 11 U.S.C. § 342(e) is available on the court's website at <http://www.ksb.uscourts.gov>.

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As amended **3/17/10**, 3/17/09, 3/17/08, 10/17/05, 3/17/05.

LBR 2002.2

SCHEDULING, LISTING AND NOTICING THE UNITED STATES AND AGENCIES OF THE STATE OF KANSAS AS A CREDITOR

(a) **Departments, Agencies and Instrumentalities of the United States.** If **When** a department, agency, or instrumentality of the United States is a creditor, the schedules and matrix must list that agency at the address provided **by in** this rule. Any notice or service given to an address listed in this rule will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(4) and (5) regarding service in adversary proceedings and contested matters.

(b) **United States Attorney's Office.** ~~In all cases in which~~ **When** any department, agency or instrumentality of the United States is a creditor, the schedule of creditors and matrix must also list the United States Attorney's Office located in the division headquarters ~~in which~~ **where** the petition for relief ~~has been~~ **is** filed. The addresses are:

1. Office of United States Attorney
Robert J. Dole U.S. Courthouse, Ste 360
500 State Avenue
Kansas City, Kansas 66101
2. Office of United States Attorney
U.S. Courthouse, Suite 290
444 Southeast Quincy Street
Topeka, Kansas 66683

3. Office of United States Attorney
1200 Epic Center
301 N. Main
Wichita, Kansas 67202

(c) Addresses for certain Departments, Agencies and Instrumentalities of the United States. If **When** one of the following departments, agencies or instrumentalities of the United States is a creditor, the schedule and matrix ~~should~~ **must** list the agency at the address indicated **herein**:

1. DEPARTMENT OF AGRICULTURE
(excepting Farm Services Agency, Ag Credit Division and Commodity Credit Divisions; and Rural Economic Community Development, which are hereafter individually set forth listed)
Regional Counsel
Department of Agriculture
Post Office Box 419205
Kansas City MO 64141-0205

Farm Services Agency
Farm Loan Programs Division
3600 Anderson Avenue
Manhattan KS 66503-2511

Farm Services Agency
Commodity Credit Division
3600 Anderson Avenue
Manhattan KS 66503-2511

USDA Rural Development
PO Box 66879
St Louis MO 63166
2. DEPARTMENT OF EDUCATION (DOE)
U.S. Department of Education
Litigation Support
50 Beale Street, Suite 8629
San Francisco CA 94105
3. DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
U. S. Dept. of Health and Human Services
Office of the General Counsel
601 East 12th Street Room N1800
Kansas City MO 64106
4. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Regional Counsel
Dept. of Housing and Urban Development
Professional Building
400 State Avenue
Kansas City KS 66101-2406
5. INTERNAL REVENUE SERVICE (IRS)
Internal Revenue Service
PO Box 21126
Philadelphia, PA 19114
6. SMALL BUSINESS ADMINISTRATION (SBA)

District Counsel
US Small Business Administration
Kansas City District Office
1000 Walnut Street Suite 500
Kansas City MO 64106; or

District Counsel
U S Small Business Administration
271 W Third Street North
Suite 2500
Wichita KS 67202-1212

7. SOCIAL SECURITY ADMINISTRATION

Office of General Counsel, Region VII
Social Security Administration
Richard Bolling Federal Building
601 East 12th St Room 965
Kansas City MO 64106

8. UNITED STATES POSTAL SERVICE

Law Department
US Postal Service
9350 South 150 East
Suite 800
Sandy UT 84070-2716

9. VETERANS ADMINISTRATION (VA)

Department of Veterans Affairs
Office of Regional Counsel
1201 Walnut Street
Suite 800
Kansas City MO 64106

(d) Departments, Agencies and Instrumentalities of the State of Kansas. If a **When any** department, agency, or instrumentality of the State of Kansas is a creditor, the schedules and matrix must list that agency at the address provided by **in** this rule. Any notice or service given to an address listed in this rule will be in addition to any notice required by statute, rule or regulation. *See also* D. Kan. LBR 7004.1 and Fed. R. Bankr. P. 7004(b)(6) regarding service in adversary proceedings and contested matters.

(e) Addresses for certain Departments, Agencies and Instrumentalities of the State of Kansas. If **When** one of the following departments, agencies or instrumentalities of the State of Kansas is a creditor, the schedule and matrix ~~should~~ **must** list the agency at the address indicated **herein**:

1. Kansas Department of Administration
Attn Director of Accounts and Reports
Landon State Ofc Bldg Rm. 351-S
900 SW Jackson
Topeka KS 66612
2. Kansas Department on Aging
New England Building
503 S Kansas Ave.
Topeka KS 66603-3404

3. Kansas Department of Agriculture
Office of Chief Counsel
109 SW 9th 4th Floor
Topeka KS 66612
4. Kansas Department of Commerce
1000 SW Jackson
Suite 100
Topeka KS 66612-1354
5. Kansas Department of Education
120 SE 10th Ave
Topeka KS 66612-1182
6. Kansas Dept. of Health and Environment
1000 SW Jackson
Suite 540
Topeka KS 66612-1290
7. Kansas Department of Labor
Attn Legal Services
401 SW Topeka Blvd.
Topeka KS 66603-3182
8. Kansas Department of Revenue
Civil Tax Enforcement
PO Box 12005
915 SW Harrison
Topeka KS 66612-2005
9. Kansas Dept. of Soc. and Rehab. Svcs.
Office of the Secretary
Docking State Office Building 6th Floor
915 SW Harrison
Topeka KS 66612-1570
10. Kansas Department of Transportation
Eisenhower State Office Bldg
3rd Floor West
700 SW Harrison
Topeka KS 66603-3754
11. Kansas Department of Wildlife and Parks
1020 South Kansas Ave
Room 200
Topeka KS 66612-1233

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As adopted 3/17/2008.

LBR 2014.1
APPLICATION FOR EMPLOYMENT
OF PROFESSIONALS

(a) Trustee/Debtor-in-Possession's Application to Employ Attorney to Conduct Chapter 11 Case.

~~Under § 327, a trustee/debtor-in-possession may~~ To employ attorneys ~~under § 327~~ to conduct ~~the a~~ Chapter 11 case (as distinguished from attorneys employed other than to conduct the case). ~~To employ attorneys to conduct the case,~~ the trustee/debtor-in-possession must file *with the petition* an application to employ attorneys to conduct the case in accordance with the limitations on compensation ~~as set out~~ **contained** in § 328.

(1) The application must include the following information for *the firm and for each individual* attorney who will appear before the court ~~in the conduct of the case~~:

- (A) the attorney's name and address;
- (B) specific facts showing the necessity for the employment;
- (C) the reasons for the selection;
- (D) the professional services to be rendered; and
- (E) any proposed arrangement for compensation.

(2) The application must ~~be accompanied by~~ **include** the statement of compensation paid or agreed to be paid, required by § 329---**Official Procedural** Bankruptcy Form B-203, Disclosure of Compensation of Attorney for Debtor.

(b) Accompanying Affidavit. The application must ~~be accompanied by~~ **include** a separate affidavit signed by *each* individual attorney who will appear before the court ~~in the conduct of the case~~, stating:

- (1) that the attorney is disinterested;
- (2) that the attorney does not hold or represent an interest adverse to the estate;
- (3) a description of the inquiry made to determine that the attorneys ~~who will appear before the court in the conduct of the case~~ and all the members of the firm **are disinterested persons and** do not hold or represent an ~~adverse interest~~ **adverse** to the estate ~~and are disinterested persons~~;
- (4) the firm's and the attorney's connections with the debtor, creditors, any other party in interest, their respective attorneys and accountants, the United States trustee, or any person employed in the office of the United States trustee;
- (5) **that** the attorney understands ~~that there is a~~ **the** continuing duty to disclose any adverse interest and change in disinterestedness; and
- (6) **that** the attorney understands that the court's approval of the application is not approval of any proposed terms of compensation and **that**, under § 328(a), the court may allow compensation on terms different from those proposed.

(c) Notice and Certificate of Service. The application must be accompanied by a Notice with Opportunity for Non-Evidentiary Hearing or Notice with Objection Deadline in accordance with the noticing guidelines applicable to the division and judge to whom the case is assigned and must contain a certificate evidencing service of the application, the affidavits, and the notice ~~upon~~ **on** the required parties.

(d) Service. The application, attorney affidavits, and notice must be served ~~forthwith upon~~ **on** the following:

- (1) the United States trustee;
- (2) all creditors holding secured claims;
- (3) all parties requesting notice; and
- (4) any operating creditors' committee, or if none, ~~upon~~ **on** the List of Creditors Holding 20 Largest Unsecured Claims--**Official Bankruptcy** Form 4.

(e) Objections. Interested parties must object to the application within ~~20~~ **21** days. If no ~~objection party~~ **timely objects** to the application is ~~timely filed~~, the court may ~~forthwith~~ approve the attorney's employment to represent the trustee/debtor-in-possession.

(f) Proposed Order Approving Employment. The trustee/debtor-in-possession must submit with the application a proposed Order Approving Employment in accordance with the noticing guidelines for submission of orders applicable to the division and judge to whom the case is assigned. The proposed order must acknowledge that:

- (1) the court's approval of an application in which a professional states an intention to be compensated at a specific hourly rate does not constitute approval of the hourly rate or other terms of compensation; and
- (2) approval of the terms of compensation will be considered by the court when **the attorney makes a**

final **application for** allowance of compensation ~~is made.~~

(g) Trustee's or Committee's Application to Employ Professionals Other Than Attorneys to Represent the Trustee/Debtor-in-Possession in Conducting a Chapter 11 Case. Trustees or committees applying to employ firms of professionals or individual professionals (whether special counsel, accountants, appraisers, or otherwise) must also follow the ~~application, service, notice and certification of service, objection, and proposed order~~ **above** procedures ~~set forth above.~~ Each individual professional **seeking employment** (whether or not an attorney) ~~seeking employment~~ must file an affidavit containing the information required by subsection (a)(1).

(h) Noticing by Chapter 7 Trustee. When a Chapter 7 trustee applies ~~to appoint himself or herself for appointment as counsel attorney~~ for the estate, ~~however,~~ the notice required by paragraph (b) ~~above~~ may be restricted to the United States trustee, only.

* * *

As amended **3/17/10**, 10/17/05.

LBR 2016.1

MONTHLY COMPENSATION OF PROFESSIONALS

(a) Submission and Service. In a Chapter 11 or 12 case, an attorney employed or seeking employment under § 327 to conduct the case may file a separate motion ~~to be paid~~ **for monthly payment of** fees and expenses ~~on a monthly basis.~~ The ~~separate motion~~ must state the filing date of the application to employ and, if applicable, the date an order granting the application to employ was entered of record. ~~Motions for this relief may be denied in those cases in which the court sees questionable merit.~~

(b) Provisions for Payment of Fees and Expenses. The motion must state the percentage amount of fees and expenses the professional seeks to collect on a monthly basis. The motion may request that up to 100% of the fees and 100% of the expenses be paid ~~on a monthly basis.~~ ~~However, the~~ **The** motion and the proposed order granting the motion must provide that in the event 100% of the fees are paid, the professional will hold no less than ~~20~~ **10%** of the fees in trust pending ~~approval by the court's approval~~ of an interim or final fee application, unless **the court orders** otherwise ~~ordered by the court.~~

(c) Service. The motion must be served with notice ~~as provided~~ **required** by the noticing guidelines applicable to the division and judge to whom the case is assigned. Unless the court directs otherwise, the motion must be served on:

- (1) the debtor;
- (2) debtor's ~~counsel attorney~~;
- (3) the United States trustee;
- (4) all creditors holding secured claims;
- (5) all parties requesting notice; and
- (6) any operating creditors' committee, or if none, ~~upon~~ **on** the List of Creditors Holding 20 Largest Unsecured Claims--Official ~~Bankruptcy~~ Form 4.

(d) Order. ~~With the separate motion, counsel~~ **The attorney** must submit a proposed order **with the motion** in accordance with the court's guidelines for submission of orders. ~~and it~~ **It** must state that the allowance of monthly payments of fees and expenses does not constitute an interim or final approval of the fees and expenses.

* * *

As amended **3/17/10**.

LBR 2090.1

ATTORNEYS - ADMISSION TO PRACTICE

(a) Admission of Attorneys. The bar of this court consists of those attorneys ~~heretofore~~ admitted to practice and in ~~current~~ good standing, **now and in the future**, as members of the bar of the United States District Court for the District of Kansas ~~and those attorneys hereafter admitted to practice before the district court or this court~~ in accordance with D. Kan. Rules 83.5.1 through 83.5.4.

(b) **Appearance Pro Hac Vice.** D. Kan. Rule 83.5.4 applies to the attorneys of the court.

* * *

LBR 2090.2
PROFESSIONAL CONDUCT

D. Kan. Rules 83.5.4 through 83.6.12 apply to the attorneys of the court.

* * *

LBR 3001.1
CLAIMS

(a) **Service.** Claimants in Chapters 11, 12, and 13 must send a copy of the proof of claim directly to the debtor at the time of filing, if the debtor is not represented by counsel ~~an attorney~~.

(b) **Withdrawal of Written Instruments Filed with Claims.** ~~Written~~ **Claimant may request, in writing, withdrawal of written** instruments or other documents ~~conventionally not filed electronically~~ with a proof of claim ~~may be withdrawn upon written request of the claimant, provided the request is accompanied by photostatic or other,~~ **if the claimant provides** exact copies of the documents to be withdrawn. ~~If the documents~~ **Documents that** are **original** negotiable instruments, ~~the originals~~ must be stamped with a statement indicating they were filed in support of a claim, and ~~showing~~ **must show** the name, case number, and the date the claim was filed.

(c) **Secured and Unsecured Claims.** A proof of claim must indicate whether the claim is secured, unsecured, or, if both, must specify the respective amounts claimed. The claim may include proposed amounts for secured and unsecured claims and must clearly indicate that it includes a proposed amount.

(d) **Amendment to Claim in Chapter 7.** A proof of claim, other than a priority claim, may be amended at any time prior to ~~the trustee's~~ **notice of final distribution by the trustee, but not thereafter.** A priority claim may be filed or amended on or before ~~the date that is ten~~ **14** days after the mailing to creditors of **trustee mails** the summary of the trustee's final report **to creditors** or the date on which the trustee commences final distribution under § 726, whichever is earlier. If the trustee has not objected to secured claims, ~~he or she~~ **the trustee** must give ~~20~~ **21** days' notice to all parties who have filed secured claims of his or her intent to file and serve a notice of final distribution.

(e) **Filing of Requests for Administrative Expenses in a Chapter 7 Case.** A request for payment of administrative expenses must be filed prior to the ~~trustee's~~ **notice of final distribution by the trustee.**

* * *

As amended **3/17/10**, 3/17/07, 10/17/05.

LBR 3010
SMALL DIVIDENDS IN CHAPTER 13 CASES

Chapter 13 Trustees may ~~exercise the discretion to~~ distribute a payments ~~in an amount of~~ less than \$15, without ~~first obtaining~~ a court order, when the Trustee determines ~~that it is~~ **unlikely** that the distribution to a particular creditor(s) will ~~never~~ **ever** reach the \$15.00 limit provided by Fed. R. Bankr. P. 3010(b), or that the Trustee would ~~have~~ **need** to hold funds ~~for a longer period of time than~~ reasonable if an earlier distribution ~~was~~ **is** not made.

* * *

As adopted 3/17/08.

LBR 3015(b).1
CHAPTER 13 PLAN AND PRE-CONFIRMATION
ADEQUATE PROTECTION PAYMENTS

(a) **Filed with Petition.** A Chapter 13 plan filed with the petition will be served, together with notice of the time for filing objections and the hearing to consider confirmation, by the Bankruptcy Noticing Center ("BNC").

(b) **Filed after Petition.** A plan filed after the petition must be served, together with notice of the time

for objections and the hearing to consider confirmation, by the debtor's attorney, or the debtor if not represented. A certificate of service must be filed within ~~five~~ 7 days of service.

(c) **Failure to File.** Unless an extension ~~has been~~ was obtained, failure to file a plan, together with a certificate of service, prior to the first scheduled meeting of creditors held pursuant to § 341 will result in dismissal of the case for unnecessary delay without further notice to the debtor or ~~counsel~~ debtor's attorney.

(d) **Treatment of Real Estate Mortgage Arrearage Claims and Continuing Payments.** A timely claim for mortgage payments or mortgage arrearages will be paid by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation, or specific language in the Order of Confirmation ~~directs~~ otherwise ~~directs~~ payment.

(e) **Treatment of Priority Claims.** A timely priority claim will be paid in full by the Chapter 13 trustee, as filed and allowed, and the amount stated in the proof of claim will control over any plan, unless an order, stipulation or specific language in the Order of Confirmation ~~directs~~ otherwise ~~directs~~ payment.

(f) **Objection to claim.** Nothing in this Rule ~~abrogates~~ alters the right of the debtor, trustee or other party in interest to object to any claim.

(g) Plan Payments; Adequate Protection Payments under § 1326(a)(1)(c):

(1) *Pre-confirmation § 1326(a)(1) Payments to Trustee.* – Unless the court orders otherwise, debtors ~~shall~~ must pay directly to the trustee all pre-confirmation adequate protection payments payable to creditors whose claims are secured by purchase money security interests in personal property. The trustee ~~shall~~ must promptly distribute those payments to the secured creditors whose interests are being protected, except the trustee ~~shall be permitted to~~ may retain the portion of the payment representing the statutory percentage trustee fee ~~required to be paid under subsection (g)(2)(ii).~~

(2) *Plan Payments.* – The Chapter 13 plan ~~shall~~ must specify the amounts to be paid ~~on account of~~ to each allowed secured claim ~~to be~~ treated under the plan. The total amount of the plan payment ~~to be made to the trustee by a debtor~~ must make pursuant to § 1326(a)(1) ~~shall~~ must include:

(i) an amount equal to ~~any~~ the proposed adequate protection payment ~~to~~ of each secured creditor whose claim is secured by a purchase money security interest;

(ii) any trustee's fees to be paid ~~upon~~ on the distributions of a payment described in (i); and

(iii) any other amounts to be paid to the trustee under the plan.

(3) *Amount of Adequate Protection Payments under § 1326(a)(1)(C).* – Unless ~~the court orders~~ a different payment amount ~~is ordered by the court,~~ the debtor ~~shall~~ must pay adequate protection payments equaling the payment provided in the debtor's Chapter 13 plan pursuant to subsection (g)(2)(i) ~~plus~~ statutory percentage trustee fees required by ~~subsection (g)(2)(ii)~~ when that payment is ~~being~~ made to the trustee.

(4) *Direct Payment Opt-Out.* – Secured creditors eligible for direct payment of adequate protection under § 1326(a)(1) may opt for ~~such~~ direct payments by filing a motion ~~seeking such treatment~~ and noticing it for objection in accordance with these rules and the procedures of the division ~~in which~~ where the case is pending. If no timely objection is filed, the court may enter an order requiring direct payments without further hearing. In the event such an order is entered, the debtor ~~shall~~ must make ~~those~~ the payments directly to the secured creditor, and file a certification of ~~such~~ the payments in accordance with § 1326(a)(1)(C).

(5) *Pre-confirmation Disbursements of Adequate Protection Payments to Secured Creditors by Trustee.* – Pre-confirmation disbursements of adequate protection payments under § 1326(a)(1) are ~~hereby~~ authorized without further order, but ~~such~~ no disbursements ~~shall not~~ may be made unless the secured creditor has filed a proof of claim ~~with the court.~~ Pre-confirmation disbursements under § 1326(a)(1) ~~shall~~ may be made to creditors within ~~30~~ 35 days of the filing of the proof of claim, unless, within ~~seven~~ business 7 days prior to the end of ~~such~~ the 30~~35~~-day period, the trustee has not received sufficient, cleared funds to make ~~such~~ the payment. The trustee is authorized to deduct from an allowed claim all § 1326(a)(1) pre-confirmation disbursements.

* * *

As amended 3/17/10, 3/17/07, 10/17/05.

**LBR 3015(g).1
CHAPTER 13 TRUSTEE'S MODIFICATION
OF PLAN AFTER CONFIRMATION**

Notice to all creditors of post-confirmation motions to modify plan, ~~which notice is required~~ by Fed. R. Bankr. P. 3015(g), is waived when the motion is filed by a Chapter 13 Trustee, and the sole purpose of the motion to modify plan is to recover an asset that ~~Debtor has been~~ the court ordered debtor to repay to the estate, but ~~which he/she has not repaid. The only notice required will be~~ Notice to the Debtor and Debtor's Attorney, only, is required.

* * *

As adopted 3/17/09 (formerly D. Kan. S.O. 08-2).

LBR 3022.1
FINAL DECREE IN NON-INDIVIDUAL CHAPTER 11
REORGANIZATION CASES

(a) **Timing.** Within ~~three~~ 3 months after the court orders of confirmation is entered, the plan proponent must file an application for a final decree, or show cause why the final decree cannot be entered. If an application is not filed within ~~three~~ 3 months, the plan proponent must file a status report ~~must be filed~~ every ~~six~~ 6 months thereafter until entry of the final decree.

(b) **Content.** The application for final decree must show that the estate ~~has been~~ is fully administered and must include information concerning:

- (1) the date the order confirming the plan became final;
- (2) whether deposits required by the plan ~~have been~~ were distributed;
- (3) whether the property proposed by the plan to be transferred ~~has been~~ was transferred;
- (4) whether the debtor or successor of the debtor under the plan has assumed the business or the management of the property dealt with by the plan;
- (5) whether payments under the plan have commenced;
- (6) whether all motions, contested matters and adversary proceedings ~~have been~~ are finally resolved;
- (7) whether all fees due under 28 U.S.C. § 1930 ~~have been~~ are paid;
- (8) a summary of professional fees awarded in the case;
- (9) the percentage paid to unsecured creditors; and
- (10) other facts ~~as may be necessary to enable~~ enabling the court to ~~pass on~~ decide the provisions to be included in of the final decree.

(c) **Notice.** The applicant must give ~~30~~ 28 days' notice to the following in accordance with the noticing guidelines provided by the clerk:

- (1) all parties requesting notice;
- (2) the United States trustee; and
- (3) any operating creditors' committee, or if none, creditors holding the largest 20 unsecured claims.

* * *

As amended 3/17/10, 10/17/05.

LBR 4001(a).1
STAY RELIEF

(a) **Adequate Protection.** A creditor may combine a motion for stay relief ~~may be combined~~ with a request for adequate protection.

(b) **Waiver.** The following constitutes a voluntary waiver of the 30-day requirement for a hearing contained in § 362(e):

- (1) the motion for stay relief includes a request for any other ~~related~~ relief;
- (2) movant sets a motion for stay relief, pursuant to D. Kan. LBR 9013.2 for a docket more than 30 days from the filing of the motion, which is considered a preliminary hearing under that section; and
- (3) movant fails to request that the final hearing ~~be concluded~~ conclude within 30 days of the preliminary hearing.

(c) **Effect of Debtor's Stated Intent to Surrender Property.** ~~So long as~~ If an individual Chapter 7 debtor's Statement of Intention (Official Bankruptcy Form 8) indicating an intent to surrender property that secures ~~securing~~ a debt owed to a creditor has ~~was~~ not been amended or withdrawn, the debtor ~~will be~~ is

deemed to have agreed agree to the specified creditor's stay relief motion concerning that property. When a stay relief motion clearly informs the clerk's office clerk that it is being filed pursuant to this provision, the filing fee shall be is the same as for a motion for approval of an agreement or stipulation for stay relief. A creditor that files filing a stay relief motion pursuant to this provision must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure.

(d) Information and Documentation Required With Motions For Relief From Automatic Stay.

Motions for Relief From Stay must include the following:

- (1) Copies copies of documents upon on which the claim is based, including loan documents and documents that evidence evidencing both the grant of the lien, security interest, mortgage or other encumbrance, and its proper perfection or proper recordation;
- (2) The the balance owing as of the date on the petition is filed date, and the date and amount of any payments received since the filing;
- (3) The the number of payments the debtor is in arrears, and the amount of each such payment, including the total arrearage as of on the petition date;
- (4) The the movant's best estimate of the value of the collateral collateral's value; and
- (5) The the identity of any person or entity claiming an interest in the property that is the subject of the motion and of which whom movant is aware.

(e) Post-Petition Stay Relief in Chapter 13 Cases. If the movant is seeking seeks stay relief for default in post-petition payments on property that is either the debtor's principal residence or a long term debt that debtor's provided by the Chapter 13 Plan provides for pursuant to § 1322(b)(5), then the motion and/or exhibit(s) thereto shall must contain the following:

- (1) A a legible post-petition payment history that sets forth listing the date each post-petition payment was received, the amount of each post-petition payment, and how each post-petition payment was applied;
- (2) An an itemization of any other expenses or fees that are due post-petition, including attorney fees, filing fees, late payment fees, and escrow advances;
- (3) The the total dollar amount necessary to cure the post-petition debt as of on a date certain; and
- (4) The the address where the current monthly payment is to be mailed if the mailing address is not listed in the movant's filed proof of claim or if the mailing address has changed.

(f) Conditional Orders Granting Stay Relief in Chapter 13 Cases. An agreed order that resolves resolving the motion for stay relief agreed to by the parties and that does not grant immediate stay relief shall will be known as a "Conditional Order Granting Stay Relief;" and the The following shall will apply upon alleged default:

- (1) The the movant shall must file and serve a notice of the default upon on debtor and debtor's counsel attorney, which shall set forth the that lists each payments payment allegedly missed and any other term(s) allegedly breached;
- (2) If if debtor disputes the default, then debtor shall may file a response within the time set forth listed in the Conditional Order Granting Stay Relief or within 15 14 days, whichever is later, and the court will set the matter for hearing. If debtor does not timely file a response to the notice of default, movant shall should submit to the court a final order granting stay relief; and
- (3) The the trustee shall will continue to disburse on movant's claim until the final order granting relief from stay is entered. If the final After that order granting stay relief is entered, the trustee shall, as of the date of the order, will adjust movant's claim to zero (\$0.00), effective the date of the order, and make no further disbursements on the claim. It is the responsibility of the parties to notify the trustee of the terms of any agreement or ruling decision reinstating the automatic stay and the terms thereof, so that the claim may be restored.

(g) Stay relief. A creditor who files filing a stay relief motion pursuant to this rule must give notice of the motion (and the deadline for filing objections) to the debtor, as well as to any other parties required by the Bankruptcy Code or applicable rules of procedure. Notice with an objection deadline is not required when the creditor simultaneously submits, with the motion for stay relief, an agreed order signed by the creditor's attorney, debtor's attorney, and trustee.

* * *

As amended 3/17/10, 10/17/05.

LBR 4001(a).2
EFFECT OF AUTOMATIC STAY IN
CHAPTER 12 AND 13 CASES ON INCOME
WITHHOLDING ORDERS FOR CHILD SUPPORT
IN CASES FILED BEFORE OCTOBER 17, 2005

(a) **Income Withholding Orders for Current Child Support.** Unless the debtor files ~~along with the petition~~ a motion pursuant to paragraph (c) **when the petition is filed**, the automatic stay imposed by § 362(a) does not affect current child support orders enforced by income withholding orders **in place** on the **petition date** ~~the bankruptcy petition is filed~~, whether imposed or voluntary.

(b) **Income Withholding Orders for Past Due Child Support.** The automatic stay remains in force ~~as it pertains to~~ **for** past-due child support enforced through an income withholding order, whether imposed or voluntary, ~~on the condition that~~ **if** the debtor's plan specifically addresses and treats the debtor's obligation to pay past-due child support.

(c) **Termination of Income Withholding Orders.** ~~Termination of~~ **Requests to terminate** an income withholding order that enforces a current child support obligation must be made by motion that ~~sets out~~ **provides** specific grounds justifying the termination of the **income** withholding order and the continued application of the automatic stay. If the motion is denied, the prevailing party may be awarded reasonable costs, fees, and expenses incurred in opposing the motion, as authorized by applicable rule or statute.

(d) **No Income Withholding Order.** Nothing in this rule affects the **debtor's** obligation ~~of a debtor~~ to pay child support not being collected by an income withholding order.

(e) **Applicability.** ~~Due to the adoption of the BAPCPA, this~~ **This** rule is abrogated for all cases filed after October 16, 2005.

* * *

As amended 10/17/05.

LBR 4002.1
TRUSTEE'S REQUEST FOR EVIDENCE OF INCOME,
INCLUDING TAX RETURNS

(a) **Debtor's Duty to Provide Trustee most recently filed Federal and State Income Tax Returns.** In addition to the other duties required under § 521, the debtor must provide to the trustee, at least ~~seven~~ **7** days prior to the meeting of creditors held under § 341, ~~a completed copies~~ **complete copy** of the most recent one year of Federal and State income tax returns filed pre-petition with the respective taxing authority, where applicable, ~~unless the trustee requests otherwise.~~

(b) **Debtor's Duty regarding Unfiled Returns.**

1. **Most recent unfiled return.** If the debtor has not filed a tax return for the most recent tax year ending before the ~~commencement of the case~~ **bankruptcy is filed** and that return is not yet due, the debtor ~~shall~~ **must** timely file the return with the appropriate taxing authorities, and provide a signed copy of the return to the trustee, within ~~seven~~ **7** days of its filing.

2. **Other unfiled tax returns.** If the debtor has not filed any other tax return that is due for a tax year ending before the date the bankruptcy was filed, the debtor must comply with the trustee's request for a copy of the signed return(s), the original of which must be filed with the appropriate taxing authority, within 28 days after the trustee requests a copy of the return.

(c) **Debtor's Duty to Provide Trustee Previously Filed Tax Returns and Income and Expenditure Statements.** The trustee may request ~~that the debtor to provide copies~~ **a copy** of Federal and State income tax returns for pre-petition **tax periods** and **for** post-petition tax periods for any year in which the case is pending. The ~~Chapter 13~~ trustee may **also** request ~~that the debtor to provide to the trustee~~ a statement of income and expenditures described in § 521(f)(4). This rule or any **trustee** request ~~by the trustee under this rule for a return~~ does not constitute a request to the debtor under § 521(f) to file copies of ~~such the~~ tax returns or statement of income and expenditures directly with the ~~bankruptcy~~ court.

* * *

As amended 3/17/10, 10/17/05.

LBR 4002.2
TRUSTEE REQUESTS FOR INFORMATION
FROM DEBTORS

(a) **Compliance with Trustee's Request.** Unless ~~the court orders~~ otherwise ~~ordered by the court~~, a debtor must comply ~~within 15 days~~ with any written request for information made by a trustee or the United States trustee **within 14 days**.

(b) **Filing of Requests and Responses.** The trustee ~~must~~**may** not file copies of the requests with the court unless the debtor fails to comply with this rule and the trustee requests the court to compel compliance. ~~Unless in response to a trustee's motion to compel, the~~ **The** debtor must not file copies of responses with the court **unless in response to a trustee's motion to compel**.

* * *

As amended 3/17/10, 10/17/05.

LBR 4002.3
TAX RETURNS

(a) **Place of filing.**

(1) The original of all Federal tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Internal Revenue Service
271 W 3rd Street N Suite 3000
STOP 5333 WIC
Wichita KS 67202

A signed copy of each return must be sent to the United States Attorney's Office located in the city where the bankruptcy case is filed.

(2) Except as required by paragraph (a)(3), the original of all ~~state~~**State** of Kansas tax returns for pre-petition tax periods filed after the filing of the bankruptcy petition must be filed with:

Kansas Department of Revenue
Civil Tax Enforcement
P O Box 12005
Topeka KS 66612-2005

(3) The original of all ~~state~~**State** of Kansas unemployment tax returns for pre-petition tax periods filed by a Kansas employer after the filing of the bankruptcy petition must be filed with:

Kansas Department of Labor
Attn Delinquent Account Unit
401 Topeka Blvd
Topeka KS 66603-3182

* * *

As amended 10/17/05.

LBR 4070.1
INSURANCE ON MOTOR VEHICLES

(a) **Definitions.**

(1) "Motor vehicle" includes, but is not limited to, any automobile, motorized mobile home, or house trailer designed ~~for to travel on the public highways~~ and/or capable of travel, on the public highways.

(2) "Proof of insurance" means a certificate of insurance, or other written evidence of sufficient reliability from the insurance carrier, stating **the property that is insured**, that insurance is in force, the amounts and types of coverage, a notation of the secured party as a loss payee, and the time period for which ~~such~~ **the** coverage exists.

(b) **Proof of Insurance.** Except as provided in § 1326(a)(4), proof of insurance against physical damage

and loss for any motor vehicle belonging to or leased by the debtor or the estate; that is subject to the lien of a creditor holding an allowed secured claim; must be furnished to the trustee and the creditor at or before the meeting held under § 341, or ~~upon~~ **on** written demand of the creditor. Written demand by the creditor for proof of insurance ~~shall~~ **must** be served ~~upon~~ **on** the debtor by first-class mail and ~~upon~~ **on** debtor's attorney by first-class mail or ECF notification. Failure to furnish proof of insurance at or before the meeting held under § 341 or ~~upon~~ **on** written demand as provided ~~herein shall be~~ **by these rules is** presumed to mean **there is** no insurance ~~is in effect~~. Any written "binder" must be followed by proof of permanent insurance.

(c) **Termination of Insurance.** If during the pendency of a case, insurance is canceled, not renewed, expires, or lapses for any reason, on any motor vehicle, the following sequence of events may occur:

(1) *Injunction.* The debtor is enjoined from using the motor vehicle ~~for which insurance has, in fact, been terminated~~ as long as the motor vehicle remains uninsured.

(2) *Surrender of Possession.* If the debtor fails to provide proof of re-insurance to the creditor within ~~three~~ **3** business days following delivery of the notice provided in subsection (b), or fails to provide proof of re-issuance by the day before termination of any grace period granted by the insurer, if later, the debtor must surrender the motor vehicle to the creditor.

(d) **Motion for Relief From Stay.** ~~Upon~~ **If** debtor's failure ~~fails~~ to furnish proof of insurance under (b), above, the creditor may file a motion for expedited relief from the automatic stay under § 362. ~~The failure~~ **Failure** to furnish proof of insurance under this rule ~~above shall constitute~~ **constitutes** *prima facie* evidence of irreparable injury, loss or damage pursuant to § 362(f) and Fed. R. Bankr. P. 4001(a)(2)(A).

(e) **Subsequent Termination.** In the event insurance on a motor vehicle lapses twice during the pendency of a case, the court may, ~~upon~~ **on** the filing of a motion in accordance with (d), accompanied by an affidavit evidencing compliance by the creditor with ~~the provisions of this rule~~ and evidencing the previous lapse of insurance coverage, grant the creditor relief, including relief from the automatic stay, without further hearing.

* * *

As amended 3/17/09, 10/17/05.

LBR 5003.1

ACCESS TO COURT RECORDS

(a) **Access.** The public records of the court are available for examination in the clerk's office during normal business hours. **Access to electronically-filed documents is available as set forth in Appendix 1-01 of D. Kan. LBR 5005.1.**

(b) **Copies.** The clerk will make and furnish copies, as time permits, of official public court records ~~upon~~ **after** request and payment of prescribed fees.

(c) **Sealed or Impounded Records.** Records or exhibits ordered sealed or impounded by the court are not public records within the meaning of this rule.

(d) **Restricted Access Records.** Records or exhibits filed with the court, which are nonpublic as specified in the Code or Federal Rules of Bankruptcy Procedure, are not public records within the meaning of this rule.

(e) **Search for Cases by the Clerk.** ~~The clerk's office is authorized to make a~~ **clerk may** search of the most recent ~~ten~~ **10** years of the master index maintained in the office; and ~~to~~ issue a certificate of the search. The clerk ~~will charge in advance~~ **charges** a fee for each name for which a search is conducted, **payable in advance**, as prescribed by the Administrative Office of the United States Courts.

(f) **Judgment/order Registry.** ~~The Court's~~ **court's** CM/ECF computer system fulfills the requirements of Fed. R. Bankr. P. 5003, ~~requiring~~ **which requires** the clerk to maintain copies of every final judgment or order affecting title to or lien on real property or for the recovery of money or property, and will serve as the ~~Court's~~ **court's** judgment/order registry.

* * *

As amended 3/17/08, 10/17/05.

LBR 5003.2

WITHDRAWAL **AND DISPOSITION** OF COURT RECORDS

(a) **Case Files.** A bankruptcy case file may not be withdrawn.

(b) Exhibits, Sealed Documents, and Filed Depositions. Exhibits introduced into evidence may be withdrawn from the custody of the clerk with the clerk's permission or upon order of the court. Any exhibit not withdrawn after final disposition of the proceeding may be destroyed or otherwise disposed of by the clerk. Any exhibit, sealed document, or filed deposition in the clerk's custody more than 30 days after the time for appeal, if any, has expired or an appeal has been decided and mandate received, may be returned to the parties or destroyed by the clerk if unclaimed after reasonable notice.

* * *

LBR 5005.1 FILING BY ELECTRONIC MEANS

(a) Background and Authority. Federal Rule of Civil Procedure 83, Federal Rules of Bankruptcy Procedure 5005(a)(2), and District of Kansas Rule 83.8.12, authorize this court to establish practices and procedures for the filing, signing, and verification of pleadings and documents by electronic means.

(b) Adoption of Procedures. The court adopts the *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means* (a copy of which is attached as Appendix 1-01 to this Rule) is approved and adopted by this court as a means of attorney registration of attorneys and for distribution of passwords to permit electronic filing and notice of pleadings and other documents.

(c) Designation of Electronic Filing. All cases are assigned to the Electronic Filing System unless the court orders otherwise ordered by the court. All petitions, motions, memoranda of law, or other pleadings and documents filed with the court in connection with a case assigned to the Electronic Filing System shall must be filed electronically unless otherwise permitted in these rules, or the administrative procedures guide, or unless otherwise authorized by the court authorization. Electronic filing shall must be consistent with this Rule and *Appendix 1-01, Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means*.

Appendix 1-01 to LBR 5005.1

Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means (Rev. 3-17-05)

I. Scope of Electronic Filing

A. **Electronic Filing Required.** Effective September 1, 2004, all petitions, motions, memoranda of law, or other pleadings and documents required to be filed with the court by an attorney in any case assigned to the Electronic Filing System pursuant to subsection B below shall be electronically filed, except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically.

B. **Assignment of Cases.** All cases pending or filed on September 1, 2004, will be assigned to the Electronic Filing System.

C. **Exception.** Notwithstanding the foregoing, persons (other than attorneys) who are not Filing Users in the electronic filing system are not required to electronically file pleadings and other documents in a case assigned to the System. The court may, from time to time, and only in exceptional circumstances, relieve attorneys from the electronic filing requirement. The Debtor's Declaration re: Electronic Filing and trial exhibits are not to be filed electronically unless otherwise directed by the court.

D. **Filing Fees.** For filings that require a fee to be paid, the office of the clerk will automatically draw payment from the credit card account that was provided by the attorney. The court will not maintain electronic billing or debit accounts for lawyers or law firms.

II. Eligibility, Registration, Passwords

A. **Attorney Eligibility.** Attorneys admitted to the bar of this court (including those admitted pro hac vice and attorneys authorized to represent the United States), United States trustees and their assistants, bankruptcy administrators and their assistants, private trustees, and others as the court deems appropriate, may register as Filing Users of the court's Electronic Filing System. Registration is in a form prescribed by the clerk and requires the Filing User's name, address, telephone number, Internet e-mail address and, in the case of an attorney, a declaration that the attorney is admitted to the bar of this court.

B. Eligibility of Other Parties. If the court permits, a party to a pending action who is not represented by an attorney may register as a Filing User in the Electronic Filing System solely for purposes of the action. Registration is in a form prescribed by the clerk and requires identification of the action as well as the name, address, telephone number and Internet e-mail address of the party. If, during the course of the action, the party retains an attorney who appears on the party's behalf, the attorney must advise the clerk to terminate the party's registration as a Filing User upon the attorney's appearance.

C. Creditor Eligibility. Creditors without counsel may register as Filing Users of the court's electronic filing system for the sole purpose of filing claims, notice of transferred claims, reaffirmation agreements, requests to receive notices, and withdrawal of claims.

D. Registration. Provided that a Filing User has an Internet e-mail address, registration as a Filing User constitutes: (1) waiver of the right to receive notice by first class mail and consent to receive notice electronically; and (2) waiver of the right to service by personal service or first class mail and consent to electronic service, except with regard to service of a summons and complaint under Fed. R. Bankr. P. 7004. Waiver of service and notice by first class mail applies to notice of the entry of an order or judgment under Fed. R. Bankr. P. 9022.

E. Passwords. Once registration and training, as prescribed by the court, are completed, the Filing User will receive notification of the user log-in and password. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their password has been compromised.

F. Revocation of Registration. The court reserves the right to revoke an Electronic Filer's password and, therefore, his or her authority and ability to electronically file documents for failure to comply with the provisions of these *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means*, failure to pay fees required for documents electronically filed, or other misuse of the electronic case filing system.

III. Consequences of Electronic Filing

A. Filing. Electronic transmission of a document to the Electronic Filing System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the court, constitutes filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the local rules of this court, and constitutes entry of the document on the docket kept by the clerk under Fed. R. Bankr. P. 5003.

B. Legibility. The Filing User is responsible for assuring the legibility of all documents, scanned or otherwise, filed with the court.

C. Official Record. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently converted to electronic form, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

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

IV. Entry of Court-Issued Documents

A. Entry of Orders. All orders, decrees, judgments, and proceedings of the court will be filed in accordance with these rules, which will constitute entry on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021. All signed orders will be filed electronically by the court or court personnel. Any order filed electronically without the original signature of a judge has the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in a conventional manner.

B. Orders may also be issued as "text-only" entries on the docket, without an attached document. Such orders are official and binding.

C. The court may sign, seal, and issue a summons electronically, although a summons may not be served electronically.

D. Submission of Orders. A Filing User submitting a document electronically that requires a judge's signature must promptly deliver the document in such form as the court requires.

V. Attachments and Exhibits

Filing Users must submit in electronic form all documents referenced as exhibits or attachments, unless otherwise directed by the court. A Filing User must submit as exhibits or attachments only those excerpts

of the referenced documents that are directly germane to the matter under consideration by the court. Excerpted material must be clearly and prominently identified as such (*also see* D. Kan. Rule 5.1(f) and D. Kan. LBR 9072.1(a) dealing with bulky/voluminous exhibits). Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane. The court may require parties to file additional excerpts or the complete document.

VI. Sealed Documents

Documents ordered to be placed under seal must be filed conventionally, and not electronically, unless specifically authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the clerk.

VII. Retention Requirements

Documents that are electronically filed and require original signatures other than that of the Filing User must be maintained in paper form by the Filing User until 6 years after all time periods for appeals expire. On request of the court, the Filing User must provide original documents for review.

VIII. Signatures

A. User Log-In and Password. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before the court. Electronically filed documents must include a signature block in compliance with D. Kan. LBR 9011.4, and must set forth the name, address, telephone number and the attorney's Kansas bar registration number, or equivalent. In addition, the name of the Filing User under whose log-in and password the document is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

B. Password Security. No Filing User or other person may knowingly permit or cause to permit a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

C. Documents containing the signature of non-Filing Users are to be filed electronically with the signature represented by a "s/" and the name typed in the space where a signature would otherwise appear, or as a scanned image.

D. Documents requiring signatures of more than one party must be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) submitting an electronic document upon which the consent of the other parties is represented; or (3) in any other manner approved by the court.

IX. Service of Documents by Electronic Means

A. Notice of Electronic Filing. The "Notice of Electronic Filing" that is automatically generated by the court's Electronic Filing System constitutes service or notice of the filed document on Filing Users. Parties who are not Filing Users must be provided notice or service of any pleading or other document electronically filed in accordance with the Federal Rules of Bankruptcy Procedure and the local rules.

B. Certificate of Service. A certificate of service must be included with all documents filed electronically, indicating that service was accomplished through the Notice of Electronic Filing for parties and counsel who are Filing Users and indicating how service was accomplished on any party or counsel who is not a Filing User. Certificates of Service shall be in substantial compliance with D. Kan. LBR 9013.3.

C. Nothing contained in this procedure relieves counsel of the burden of obtaining personal service under Fed. R. Bankr. P. 7004 or Fed. R. Civ. P. 4, where appropriate.

X. Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in an action assigned to the Electronic Filing System, the clerk will transmit to Filing Users in the case, in electronic form, a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing constitutes the notice required by Fed. R. Bankr. P. 9022. The clerk, or other party as the court may direct, must give notice to a person who has not consented to electronic service in paper form in accordance with the Federal Rules of Bankruptcy Procedure.

XI. Technical Failures

A Filing User whose filing is made untimely as the result of a technical failure may seek appropriate relief from the court.

XII. Public Access

A. PACER Access. Any person or organization, other than one registered as a Filing User under these rules, may access the Electronic Filing System at <https://ecf.ksb.uscourts.gov> by obtaining a PACER log-in and password. Those who have PACER access but who are not Filing Users may retrieve docket sheets and documents, but they may not file documents.

B. Clerk's Office Access. Access to all documents is available, without obtaining a password, in the clerk's office during regular business hours, Monday through Friday. Conventional and certified copies of electronically filed documents may be purchased at the clerk's office during regular business hours Monday through Friday. The fee for copying and certifying shall be in accordance with the Schedule of Miscellaneous Fees promulgated by the Judicial Conference of the United States pursuant to 28 U.S.C. § 1930(b).

C. Redaction. In connection with the filing of any material in an action assigned to the Electronic Filing System, any person may apply by motion for an order limiting electronic access to or prohibiting the electronic filing of certain specifically-identified materials on the grounds that such material is subject to privacy interests and that electronic access or electronic filing in the action is likely to prejudice those privacy interests.

D. Misuse. Information posted on the System must not be downloaded for uses inconsistent with the privacy concerns of any person.

* * *

As amended 3/17/2008

LBR 5072.1

COURTROOM PRACTICES

(a) **Addressing the Court.** Attorneys ~~or pro se litigants~~ and **unrepresented parties** must rise when addressing the court, must ~~make all statements~~ **speak** to the court from ~~the~~ counsel table or the lectern facing the court and ~~must~~ **may** not approach the bench, except ~~upon the~~ **with court** permission ~~of the court~~.

(b) **Questioning Witnesses.** While questioning witnesses, attorneys ~~or pro se litigants~~ and **unrepresented parties** must stand at ~~the~~ counsel table or at the lectern and ~~must~~ **may** not approach the witness, except with ~~the court's~~ **court** permission. Only one attorney for each party may participate in the examination or cross examination of a witness.

* * *

LBR 5075.1

ORDERS BY BANKRUPTCY CLERK; REVIEW

(a) **Orders.**

(1) The clerk is authorized to sign and enter the following orders without further direction by the court:

(A) in adversary proceedings,

(i) an order extending once for ~~ten~~ **14** days, the time ~~within which~~ to answer, reply or otherwise plead to a complaint, ~~cross-claim~~ **crossclaim** or counterclaim if the time originally prescribed to plead has not expired;

(ii) a consent order dismissing an action, except in cases governed by Fed. R. Bankr. P. 7023 and/or D. Kan. LBR 7041.1; **and**

(iii) entry of default and judgment by default as provided for in Fed. R. Bankr. P. 7055;

(B) an order for the payment of money on consent of all interested parties;

(C) an order permitting payment of filing fees in installments;

(D) an order for compliance requiring timely filing of schedules and statements or for compliance with filing requirements and a notice of intent to dismiss for failure to comply;

(E) an order granting waiver of Chapter 7 filing fees; and

(F) any other order that is specified by Standing Order as not requiring special direction by the court.

(2) ~~Any order submitted to the clerk under this rule must be signed by the A party or attorney submitting an order under this rule must sign~~ it, and ~~that signature~~ is subject to the provisions of Fed. R. Bankr. P. 9011 and D. Kan. LBR 9011.3.

(3) ~~Any order submitted to the clerk~~ **A party or attorney submitting an order** for an extension of time under paragraph (a) must state:

(A) the date when the time for the act sought to be extended is due;

(B) the date to which the time for the act is to be extended; and

(C) that the time originally prescribed has not expired.

(b) Clerk's Action Reviewable. ~~For good cause, the court may suspend, alter, or rescind Any any order entered by the clerk under this rule may be suspended, altered or rescinded as authorized by Fed. R. Bankr. P. 9024.~~

* * *

As amended 3/17/07, 10/17/05.

LBR 6004.1 PERSONS PROHIBITED FROM PURCHASING AT SALES

(a) Judges/ or Clerks. ~~No person who is currently serving as a bankruptcy judge or clerk, or their employees and spouses, may directly or indirectly purchase property from any bankruptcy estate. No former bankruptcy judge or clerk, nor any former member of their staffs, may purchase property directly or indirectly from any bankruptcy estate pending at the time the person left office.~~

(b) Other Officers.

(1) ~~Current service~~ **Service.** ~~No person who is currently serving as trustee, examiner, appraiser, auctioneer, accountant, realtor or attorney for a bankruptcy estate, their spouses, their employees and the spouses of their employees, may directly or indirectly purchase property from any bankruptcy estate pending while the person is serving.~~

(2) **Former Service.** ~~No person who has served as a trustee, examiner, auctioneer, accountant, realtor or attorney for a bankruptcy estate, and no spouse or employee of such those persons, may purchase, directly or indirectly, property from a bankruptcy estate pending at the time the person ceased service.~~

* * *

As amended 3/17/05.

LBR 6007.1 ABANDONMENT OF PROPERTY OF THE ESTATE

When the clerk of the court provides the Notice of Bankruptcy Case, Meeting of Creditors and Deadlines, the Notice ~~shall~~ **must** contain a provision that within 60 days from the conclusion of the meeting of creditors held under § 341, the trustee may file notice of intended abandonment of any or all of the debtor's property in the estate as authorized by § 554 without further service on creditors or interested parties. Unless a creditor or interested party objects to abandonment within 75 days ~~from the conclusion of~~ **after** the meeting of creditors held under § 341 **concludes**, the property subject to the intended abandonment will be deemed abandoned without further notice or order of the court.

* * *

As amended 10/17/05.

LBR 7003.1 COMMENCEMENT OF ADVERSARY PROCEEDING

(a) Cover Sheet. An Adversary Proceeding Cover Sheet, in a form supplied by the clerk, must be completed and ~~attached to each complaint~~ **submitted with any complaint commencing an action or any notice of removal from state court.**

(b) Case Number System. ~~Upon filing, an~~ **The clerk will assign each** adversary proceeding ~~will be assigned a number by the clerk that begins with a two-digit indicator of the year in which the proceeding was~~ **is** filed, followed by a hyphen and the individualized case number of four digits. The four-digit individualized case numbers are as follows:

- Kansas City proceedings begin with a "6" (e.g., ~~09~~**10**-6001);
- Topeka proceedings begin with a "7" (e.g., ~~09~~**10**-7001);
- Wichita proceedings begin with a "5" (e.g., ~~09~~**10**-5001).

* * *

As amended 10/17/05.

LBR 7004.1

SERVICE OF SUMMONS AND COMPLAINT ON THE UNITED STATES OR THE STATE OF KANSAS

(a) Service on the United States. When the United States and/or a department, agency or instrumentality of the United States is named as a party defendant, service of any summons or complaint must be made:

- (1) in the manner prescribed by rule or statute;
- (2) on the United States Attorney's Office located in the division city where the petition for relief ~~was~~ **is** filed; and
- (3) on the department, agency or instrumentality of the United States as prescribed by D. Kan. LBR 2002.2.

(b) Service on the State of Kansas. When the State of Kansas and/or a department, agency or instrumentality of the State of Kansas is named as a party defendant, service of any summons or complaint must be made:

- (1) in the manner prescribed by rule or statute; and
- (2) on the department, agency or instrumentality of the State of Kansas as prescribed by D. Kan. LBR 2002.2.

* * *

As amended 3/17/08, 10/17/05, 3/17/05.

LBR 7012.1

MOTIONS TO DISMISS

(a) Memorandum in Support. ~~A supporting brief or memorandum must accompany~~ **party or attorney filing** a motion to dismiss ~~made~~ pursuant to Fed. R. Bankr. P. 7012 **must also file a supporting brief or memorandum.**

(b) Time for Filing of Responses and Replies. Any ~~opposing~~ **party or attorney filing** a brief or memorandum in response to a motion to dismiss must ~~be filed~~ **file** and ~~served~~ **serve it** within ~~23~~ **21** days ~~of service of the motion.~~ **of service of the motion.** The moving party may file and serve a supporting brief or memorandum in reply within ~~23~~ **14** days of service of the response. ~~The period to respond or reply applies regardless of the method of service because the period includes the additional three-day period allowed under Fed. R. Civ. P. 6(e).~~

(c) Limit on Responses and Replies. ~~No more than~~ **Parties and attorneys may file only** one response and one reply ~~may be filed~~ without prior **court** order of the court.

(d) Oral Argument. ~~A~~ **Parties may** request for oral argument ~~may be made~~ in the motion or any memorandum.

* * *

As amended **3/17/10**, 10/17/05.

LBR 7026.1

DISCOVERY

(a) Application. This rule applies to adversary proceedings, and contested matters as prescribed by Fed. R. Bankr. P. 9014 and when ~~ordered by the court.~~ **The provisions of orders.** Fed. R. Civ. P. 26(a) and (f), and the corresponding sections of this rule, do not apply to contested matters unless the presiding judge specifically orders otherwise.

(b) Completion Time. ~~The parties should complete Discovery~~ **discovery should be completed within** four months from the later of the date the case becomes at issue or the date a scheduling order is issued pursuant to Fed. R. Bankr. P. 7016. ~~The court, for good cause shown, may reduce or enlarge the discovery period.~~ **Ordinarily, the parties should have completed discovery before the pretrial conference. For good cause, the court may establish longer or shorter periods for the completion of discovery.**

(c) Notice of Depositions Permitted by Fed. R. Bankr. P. 7030. The reasonable notice for ~~deposing a person~~ **taking a deposition** is ~~five~~ **7** days unless the court enlarges or shortens the required notice for good cause shown. **For good cause, the court may enlarge or shorten the time.**

(d) Motions for Protective Order.

(1) ~~Automatically Stays~~ **Stay of Discovery.** Except as provided in paragraph (2), a motion for protective order filed pursuant to Fed. R. Bankr. P. 7026(c) or 7030(d), or a motion to quash or modify a deposition subpoena filed pursuant to Fed. R. Bankr. P. 9016, stays the **particular** discovery or deposition ~~at which the motion is directed~~ pending **court** order ~~of the court~~.

(2) **Proper Notice of Deposition.** A motion filed under this rule will not stay a properly noticed deposition unless ~~the motion is~~ filed and served ~~upon counsel~~ **on the attorneys** or parties within ~~ten~~ **14** days after service of the deposition notice and at least 48 hours in advance of the deposition.

(3) **No appearance at Deposition Required.** No party, witness, or attorney is required to appear at a deposition stayed by a motion under this rule until the **court decides** the motion ~~has been ruled upon~~ or **it is** otherwise resolved.

(e) Additional Interrogatories to Those Permitted by Fed. R. Bankr. P. 7033(a). A request **party must file a motion to seek leave** to serve additional interrogatories ~~must be made by motion setting forth in excess of the number permitted by Fed. R. Bankr. P. 7033(a). The motion must (1) submit the proposed additional interrogatories; and the reasons that establish (2) state good cause for their service those interrogatories.~~ Additional interrogatories served under this rule are subject to ~~the provisions of subsection (j)(1) of this rule.~~

(f) Format for Interrogatories Served Pursuant to Fed. R. Bankr. P. 7033. Sufficient space for **the insertion of** an answer must be provided after each interrogatory. Each answer must be ~~preceded by~~ **directly follow** the interrogatory being answered.

(g) Motions Relating to Discovery. Motions under Fed. R. Bankr. P. 7026(c) or 7037(a) directed at **depositions**, interrogatories, requests for production of documents, or requests for admissions under Fed. R. Bankr. P. 7030, 7033, 7034 or 7036, or at the responses thereto, must be accompanied by copies of the portions of the interrogatories, requests or responses in dispute. **Motions under Fed. R. Bankr. P. 9016 directed at subpoenas must be accompanied by a copy of the disputed subpoena.**

(h) Depositions. Deposition transcripts ~~must~~ **may** not be filed with the clerk unless ordered by the court. ~~Original deposition transcripts will be delivered by the reporting stenographer unless the court orders otherwise. The originals of all stenographically-reported depositions must be delivered~~ to the party noticing the deposition:

- (1) ~~after the deponent signs the completed transcript~~ **signature by the deponent if he or she has requested to review the transcript and to make changes;**
- (2) ~~upon~~ **on** completion, if the deponent and all interested parties ~~waive signature on~~ **has not requested to review the record transcript;** or
- (3) ~~upon~~ **on** certification by the stenographer that **following reasonable notice** to the deponent and deponent's counsel received notice **attorney of the availability** of the transcript's completion and that **transcript for signature**, the deponent ~~then~~ **has** failed or refused to sign the original transcript within a reasonable period of time **it**.

(i) Retention of Originals. The party receiving delivery of an original deposition transcript shall retain ~~it and make it~~ **The party to whom it is delivered must retain the original of the deposition to be** available for appropriate use by any party in a hearing or trial of the case.

(j) Disclosures and Discovery Not to be Filed.

(1) The following ~~disclosures and discovery along with the responses thereto,~~ must be served ~~upon~~ **on** other counsel **attorneys** and unrepresented parties, but ~~must not be filed with the clerk:~~

- (A) disclosures required under Fed. R. Bankr. P. 7026(a)(1) and (2);
- (B) interrogatories under Fed. R. Bankr. P. 7033;

- (C) requests for production or inspection under Fed. R. Bankr. P. 7034; and
- (D) requests for admission under Fed. R. Bankr. P. 7036; and
- (E) **the responses.**

(2) At the same time disclosures, discovery, or responses are served, the serving party must file a certificate of service ~~with the clerk~~ stating the type of disclosure, discovery or response served, the date and type of service, and the party served.

~~(j)~~ **(k) Use of Discovery at Trial.** A party ~~shall~~ **must** file with the clerk at the beginning of trial, **or earlier if required by court order**, the portions of any deposition transcript, interrogatories, requests for production or inspection, admissions, or any responses ~~thereto~~, **if the party** reasonably anticipates using.

~~(k)~~ **(l) Duty to Confer Concerning Discovery Disputes.** In addition to the duties ~~to confer set out in~~ **required by** Fed. R. Bankr. P. 7026 through 7037, unless **the court orders** otherwise ~~ordered~~, the court will not entertain any motion to quash or modify a subpoena pursuant to Fed. R. Bankr. P. 9016, or any motion under Fed. R. Civ. P. 26(c) or 37(a), unless ~~counsel~~ **the attorney** for the moving party ~~has conferred~~ **confers** or has made reasonable effort to confer with opposing ~~counsel~~ **attorneys** concerning the matter in dispute prior to the filing of the motion. Every certification required by Fed. R. Bankr. P. 7026(c) and 7037 and this rule related to ~~the efforts of the parties~~ **attempts** to resolve discovery or disclosure disputes must describe the steps taken by all ~~counsel~~ **attorneys** to resolve the issues ~~in dispute~~ **disputed issues**.

(1) Definition of “reasonable effort to confer.” “Reasonable effort to confer” means more than mailing or faxing a letter to the opposing party. It requires that the parties in good faith converse, confer, compare views, consult, and deliberate, or in good faith attempt to do so.

~~(l)~~ **(m) Trial Preparation After Close of Discovery.**

(1) ~~The Parties should ordinarily take the~~ deposition of a material witness not subject to subpoena ~~should ordinarily be taken~~ during the discovery period. ~~However,~~ **Parties may depose** a material witness who agrees to appear at trial, but later becomes unable or refuses to attend, ~~may be deposed~~ at any time prior to trial.

(2) The **court may order the** physical or mental examination of a party pursuant to Fed. R. Bankr. P. 7035 ~~may be ordered~~ at any time prior to trial.

* * *

As amended 3/17/10, 10/17/05.

LBR 7041.1 DISMISSAL OF BANKRUPTCY CODE § 727 COMPLAINTS OBJECTING TO DISCHARGE

(a) Affidavits as to of No Consideration. A motion for dismissal of **Plaintiff and debtor shall execute and file affidavits with any motion to dismiss** a complaint objecting to discharge under § 727 ~~must be accompanied by affidavits executed by the plaintiff and the debtor~~ stating that no consideration has been promised or given to effect the withdrawal of the complaint, or, ~~if any consideration has been promised or given,~~ **stating** the nature and amount ~~thereof~~ **of any consideration promised or given**.

(b) Trustee's Motion to Intervene. If the trustee or the United States trustee objects to dismissal of the complaint, the trustee or the United States trustee must, within ~~15~~ **14** days after notice under Fed. R. Bankr. P. 7041, ~~serve on the parties to the complaint and file with the court~~ a motion to intervene and be substituted as plaintiff, **and serve it on the parties to the complaint**.

* * *

As amended 3/17/10.

LBR 7054.1 TAXATION AND PAYMENT OF COSTS

(a) Procedure for Taxation. ~~The~~ **Any** party in favor of whom costs have been allowed **costs** under Fed. R. Bankr. P. 7054(b) must file a bill of costs on the form provided by the clerk within ~~30~~ **28** days **after**:

- (1) ~~after the expiration of time allowed for appeal of a final order;~~ or
- (2) ~~after the clerk receives an order terminating the action on appeal.~~

(b) Waiver. ~~The failure~~ **Failure** of a prevailing party to timely file a bill of costs ~~shall constitute~~ **constitutes** a waiver of any claim for costs.

~~(b)~~**(c) Date for Presentation.** Before filing a bill of costs, the prevailing party must obtain from the

clerk a date for presentation of the bill of costs so that adverse parties may be notified when to appear to ~~and~~ contest the bill.

(e)(d) To Whom Payable. All costs taxed are payable directly to the prevailing party, ~~entitled thereto and~~ not to the clerk, ~~unless the court orders otherwise.~~

* * *

As amended 3/17/10.

LBR 7056.1 MOTIONS FOR SUMMARY JUDGMENT

(a) Supporting Memorandum in Support. The memorandum or brief in support of a motion for summary judgment must begin with a section ~~that contains~~ **containing** a concise statement of material facts as to which the movant contends no genuine issue exists. The facts must be numbered and **must** refer with particularity to those portions of the record ~~upon~~ **on** which the movant relies. ~~All material facts set forth in the statement of the movant shall be deemed admitted~~ **The court will deem admitted**, for the purpose of summary judgment, **all material facts contained in the statement of the movant** unless ~~specifically controverted by~~ the statement of the opposing party **specifically controverts those facts.**

(b) Opposing Memorandum in Opposition.

(1) A memorandum in opposition to a motion for summary judgment ~~shall~~ **must** begin with a section ~~that contains~~ **containing** a concise statement of material facts as to which the party contends a genuine issue exists. Each fact in dispute ~~shall~~ **must** be numbered by paragraph, ~~shall~~ refer with particularity to those portions of the record ~~upon~~ **on** which the opposing party relies, and, if applicable, state the number of movant's fact that is disputed.

(2) If the party opposing summary judgment relies on any facts not contained in movant's memorandum, that party ~~shall set forth~~ **must include** each additional fact in a separately numbered paragraph, supported by references to the record, in the manner required by subsection (a), ~~above.~~ **The court will deem admitted, for the purpose of summary judgment, All all material facts set forth included** in this statement of the non-moving party ~~shall be deemed admitted for the purpose of summary judgment unless the reply specifically controverted by~~ **controverts the reply of the moving party those facts.**

(c) Reply Memorandum. In a reply brief, the moving party ~~shall~~ **must** respond to the non-moving party's statement of undisputed material facts in the manner prescribed in subsection (b)(1).

(d) Presentation of Factual Material. All facts on which a motion or opposition is based ~~shall~~ **must** be presented by affidavit, declaration under penalty of perjury, and/or through the use of relevant portions of pleadings, depositions, answers to interrogatories and responses to requests for admissions. Affidavits or declarations ~~shall~~ **must** be made on personal knowledge and by a person competent to testify to the facts stated **that are admissible in evidence.** Where facts referred to in an affidavit or declaration are contained in another document, such as a deposition, interrogatory answer, or admission, a copy of the relevant excerpt from the document ~~shall~~ **must** be attached.

(e) Duty to Fairly Meet the Substance of the Matter Asserted. If the responding party cannot truthfully admit or deny the factual matter asserted, the response ~~shall~~ **must** specifically ~~set forth~~ **explain** in detail the reasons why. All responses ~~shall~~ **must** fairly meet the substance of the matter asserted.

(f) Time for Filing of Responses and Replies. A party ~~shall have~~ **has** ~~23~~ **21** days to file and serve a response to a motion for summary judgment. After service of ~~such a~~ **the** response, the moving party ~~shall~~ **have** ~~has~~ ~~23~~ **14** days to file and serve a reply memorandum in support of the motion. ~~The period to respond or reply applies regardless of the method of service because it includes the additional three-day period allowed under Fed. R. Civ. P. 6(e).~~

(g) Limit on Responses and Replies. ~~No~~ **Parties may file no** more than one response and one reply ~~may be filed without prior~~ **court order of the court.**

(h) Oral Argument. ~~A~~ **Parties may** request for oral argument ~~may be made~~ in the motion or any memorandum.

* * *

As amended 3/17/10, 3/17/07, 10/17/05.

LBR 7065.1
RESTRAINING ORDERS AND TEMPORARY
INJUNCTIONS IN ADVERSARY ACTIONS

A prayer for a temporary injunction or restraining order ~~set forth~~ **included** in an adversary complaint pursuant to Fed. R. Bankr. P. 7001 is not sufficient to bring the issue before the court prior to trial. If a ruling before trial is desired, it must be sought by separate motion ~~within~~ **filed in** the adversary proceeding.

* * *

LBR 8006.1
RECORD AND ISSUES ON APPEAL

Designation of Record. ~~Upon~~ **After** filing the notice of appeal, the appellant must file by formal pleading within ~~ten~~ **14** days from the ~~date the notice of appeal file date is filed~~, a designation of the items to be included in the record on appeal and a statement of issues. The designation of the record must ~~set forth~~ **include** the pleading numbers and file date of those pleadings ~~designated in the record on appeal~~. Parties must perfect their appeal pursuant to Fed. R. Bankr. P. 8006.

* * *

As amended 3/17/10.

LBR 9004.1
FORM OF PLEADINGS AND DOCUMENTS

(a) Pleadings, Motions, Briefs and Other Documents.

(1) *Generally.* Pleadings, motions, briefs, and other documents submitted for filing, including all exhibits and/or attachments, must be:

- submitted on 8-1/2 x 11 inch paper;
- typewritten, printed, or computer-generated with type no smaller than ten points set no more than an average of 12 characters per inch; and
- double-spaced where practicable.

(2) *Subsequent Filings.* All pleadings and documents filed subsequent to those commencing a case must be endorsed on the upper right-hand corner of the first page with the case number. The title of the subsequent pleading or document ~~should~~ **must** describe ~~its~~ **its** the contents thereof, and state on whose behalf the document is filed.

(3) *Adversary Proceedings.* Fed. R. Bankr. P. 7010 and Official Bankruptcy Forms apply to all pleadings and documents filed in adversary proceedings.

(b) Orders.

(1) *Generally.*

(A) The following information must appear at the top of the signatory page of all orders:

- = (i) the name of the court;
- = (ii) the case caption, the case number and chapter; and
- = (iii) the caption of the order and page number.

(B) The top margin on the first page of an order must be four inches; all subsequent pages of the order must have a top margin of one inch.

(C) The last line of the order preceding ~~counsel~~ **attorney** signatures must consist of ~~three~~ **3** pound symbols (# # #), centered, to indicate the end of the order. Omit a signature line for the judge because all orders will be signed electronically in the top margin of the first page.

(2) *Resulting from Hearing.* Unless the court directs otherwise, orders resulting from an actual hearing are due ~~ten~~ **14** days from the date of the hearing. The first paragraph of the order must begin with the actual date of the hearing, ~~such as e.g.,~~ “Now on this 23rd day of ~~July~~, **March 2005 2010**, this matter came before the court...”

(3) *No Hearing Held.* Orders resulting from the failure to object or respond to a notice with objection deadline are due ~~ten~~ **14** days after the deadline expires. The first paragraph of the order must begin by stating that the matter was noticed with opportunity for hearing but no objections were filed and no hearing was held.

(c) **Requests for Relief in Pleadings.** ~~A~~ **The pleading's caption must contain a** short statement of the relief requested ~~by a motion must be included in the pleading's caption.~~ Pleadings ~~must~~ **may** not contain an unrelated request for relief, *i.e.*, **e.g.**, a motion for relief from the automatic stay may request adequate protection, but may not request unrelated relief, such as a request to dismiss the case. ~~A request for relief may not be included in a~~ **responsive pleading may not request relief** except as permitted by the Federal Rules of Bankruptcy Procedure.

(d) **Orders Addressing Requests for Relief.** Orders resolving pleadings must address all the requests for relief made in the pleading and, to assist the clerk with docketing and quality control, must identify in the caption of the order the relief granted and/or denied.

* * *

As amended 3/17/10, 10/17/05, 3/17/05.

LBR 9010.1 APPEARANCE BY CORPORATIONS, PARTNERSHIPS AND ENTITIES OTHER THAN INDIVIDUALS

A corporation, partnership, or entity other than an individual may appear and participate only through an attorney in an adversary **proceeding**, contested matter or other court hearing involving the questioning of a witness or a presentation to the court. This rule does not prohibit a corporation, partnership, or other entity from acting without an attorney in filing a claim, voting to elect a trustee, serving on an approved committee, or filing an acceptance/rejection of a plan under Chapters 11, 12, or 13.

* * *

LBR 9011.3 SANCTIONS

(a) Sanctions Under Applicable Rules and Statutes.

(1) *On Court's Own Initiative.* The court, ~~upon~~ **on** its own initiative, may issue an order to show cause why sanctions should not be imposed against a party and/or an attorney for violation of these rules, Fed. R. Bankr. P. 9011, or other applicable statutes. The court ~~must~~ **will** state the reasons ~~therein~~ for issuing the show cause order. Unless **the court orders** otherwise ~~ordered~~, all parties ~~may~~ **must** respond within ~~ten~~ **14** days after the filing of the order to show cause. The responses may include affidavits and documentary evidence as well as legal arguments.

(2) *On a Party's Motion.* ~~A party may raise~~ **The the** issue of sanctions ~~may be raised by a party's~~ timely-filed motion. **The responding party may respond** ~~and responded to~~ in the same manner as specified above.

(3) *Procedure.* ~~After the response time expires and without further proceedings,~~ **The the** court may rule ~~forthwith on either or both of the issues of violation of~~ **and** the nature and extent of any sanction imposed ~~as raised in its order to show cause or a party's motion and responses thereto.~~ Discovery and evidentiary hearings on the question of sanctions will be permitted only ~~when ordered by the court.~~ ~~In ruling on the imposition of sanctions, the court must~~ **by court order.** **The court will** articulate the factual and legal bases for its ~~decision~~ **ruling on sanctions.**

(b) Imposition of Sanctions. ~~The court may make such~~ **If the court finds a violation of these rules, Fed. R. Bankr. P. 9011, other applicable statutes or a court order, the court may impose sanctions pursuant to Fed. R. Civ. P. 11, Fed. R. Bankr. P. 9011, or other federal rules or statutes. In addition, the court may issue other orders as are just under the circumstances of the case for violation of a local rule or order of the court, including the following:**

- (1) an order ~~that designated~~ **designating certain** matters or facts ~~is taken~~ as established for purposes of the action;
- (2) an order refusing to allow ~~the failing~~ a party to support or oppose designated claims or defenses, or prohibiting the party from offering specified witnesses or introducing designated matters in evidence;
- (3) an order striking ~~out~~ pleadings, **in whole** or ~~parts thereof,~~ or **in part**, staying proceedings until **compliance with** the rule is ~~complied with,~~ or dismissing the action, **in whole** or ~~any in part thereof,~~ or **rendering** **entering** a judgment by default against ~~the failing~~ a party; or

(4) an order imposing costs, including attorney's fees, against the a party, or the a party's attorney, who has failed to comply with a local rule, **court order or statute**.

(c) **Sanctions Within the Discretion of the Court.** The imposition of **court has discretion to impose** sanctions for violation of a local rule ~~these rules~~ or a **court** order is discretionary with the court. In considering ~~the imposition of sanctions~~, the court may consider whether a party's failure was substantially justified or whether other circumstances make ~~the imposition of sanctions~~ inappropriate.

* * *

LBR 9011.4 SIGNATURES

(a) **Signing of Pleadings by Attorneys.** The original of every pleading, motion or other document **paper** filed by an attorney must bear the genuine signature of at least one attorney of record. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of the Federal Rules of Bankruptcy Procedure, including Fed. R. Bankr. P. 9011, the local rules of this court, and any other purpose for which a signature is required ~~in connection with proceedings before the court~~. In addition, the name of the Filing User under whose log-in and password the document **paper** is submitted must be preceded by an "s/" and typed in the space where the signature would otherwise appear.

(b) **Signing of Pleadings by Unrepresented Parties.** The original of every pleading, motion or other document **paper** filed by a party not represented by an attorney must bear the genuine signature of the ~~pro~~ **se unrepresented** party. Stamped or facsimile signatures on conventionally filed original pleadings, motions, orders, or other documents are not permitted.

~~(b) Telephone Numbers and Addresses~~ (c) **Contact Information and Bar Registration Numbers.**

(1) Requirements for Unrepresented Parties and Attorneys. ~~A party or attorney signing documents~~ **Parties or attorneys signing papers** submitted for filing must include: ~~both a mailing and email address, facsimile number, and telephone number.~~

- (A) their names;
- (B) addresses;
- (C) telephone numbers;
- (D) facsimile numbers; and
- (E) e-mail addresses.

(2) Additional requirements for Attorneys. ~~An attorney must include his or her~~ **Attorneys must also include their** state supreme court registration numbers, or, in cases where the attorney is not admitted to practice in Kansas, its equivalent. **Attorneys admitted from the Western District of Missouri, by reciprocal admission, must include their Kansas District Court registration number.**

(3) Duty to Update Contact Information. Each attorney or **unrepresented** party ~~appearing pro se is under a continuing duty to~~ **must** notify the clerk in writing of any change of address or telephone number. Any notice mailed to the last address of record of an attorney or ~~a~~ **an unrepresented** party ~~appearing pro se is~~ sufficient notice.

* * *

As amended **3/17/10**, 3/17/09, 3/17/05.

LBR 9013.1 BRIEFS AND MEMORANDA

(a) **Contents.** All briefs and memoranda filed with the court must contain:

- (1) a statement of the nature of the matter before the court;
- (2) a concise statement of the facts **with each fact** supported by reference to the record in the case;
- (3) a statement of the question or questions presented; and
- (4) the argument, which must refer to all statutes, rules and authorities relied ~~upon~~ **on**.

(b) **Page Limitations.** The arguments and authorities section of briefs or memoranda ~~shall~~ **must** not exceed 30 pages absent ~~an order of the court~~ **order**.

(c) Exhibits. The filing party must separately label any exhibits attached to briefs or memoranda.

(c) (d) Citation of Unpublished Decisions. An unpublished decision cited in a brief or memorandum shall be attached as an exhibit to the memorandum or brief only if it is unavailable via electronic means (e.g., Westlaw or LEXIS). ~~Parties citing Unpublished unpublished~~ decisions that are available via electronic means ~~shall must not be furnished furnish a copy~~ to the court and ~~shall be furnished or~~ to opposing parties ~~only upon request unless requested~~. Unpublished decisions should be cited as follows: *In re Smith*, No. 02-12345, 2005 WL 8763523, at *2 (Bankr. D. Kan. Jan. 7, 2005) ~~(if available in an electronic database)~~ or *In re Smith*, No. 02-12345, (Bankr. D. Kan. Jan. 7, 2005), if not.

~~(d) (e) Additional Copies of Briefs for Court.~~ ~~The court may order the party filing a brief or document to deliver additional working copies to the clerk for use by the judge.~~ ~~If a pleading, paper or document is filed electronically, additional copies should not be provided to the court in conventional paper format.~~ The court may request that any brief be provided by electronic means, **usually in WordPerfect**.

* * *

As amended 3/17/07, 10/17/05, 3/17/05.

LBR 9013.2 NON-DISPOSITIVE MOTIONS PRACTICE

(a) Hearing Docket. A bankruptcy judge may establish a regularly scheduled docket for non-evidentiary hearing on motions. A motion may be set on ~~such a~~ docket by filing with the motion a separate notice of hearing clearly stating the hour, date, and location of ~~such the~~ hearing. A certificate of service must be filed for the motion and notice indicating service on required parties. It is ~~the movant's~~ responsibility of ~~the movant~~ to determine (1) whether a bankruptcy judge has established a docket ~~as provided by this rule~~, and (2) the correct hour, date, and location of ~~the hearing so established~~.

(b) Time. Except for **good** cause ~~shown~~, a motion filed less than ~~ten~~ **14** days before hearing may not be considered by the court. Motions that require more than ~~ten~~ **14** days' notice under the Code, the Federal Rules of Bankruptcy Procedure or these rules, must comply with this requirement.

(c) Notice with Objection Deadline. Where otherwise allowed by the Code, the Federal Rules of Bankruptcy Procedure, or these rules, a motion may be filed with a separate notice of objection deadline. The notice may provide for hearing on any objection in accordance with this rule.

(d) Waiver of Briefs in Support of Motions. Briefs and ~~memorandum in support of or in opposition~~ **memoranda relating** to non-dispositive motions are prohibited unless required by the court notwithstanding D. Kan. Rule 7.1(a). See D. Kan. LBR 7056.1 and D. Kan. LBR 7012.1.

(e) Preparation of Motions and Orders. Motions and orders ~~shall~~ **must** be prepared and submitted in accordance with D. Kan. LBR 9004.1.

* * *

As amended **3/17/10**, 10/17/05.

LBR 9013.3 PROOF OF SERVICE

(a) Certificate ~~Certificates~~ of Service. Except as otherwise provided by order of the court or by rule, ~~the court or rules provide otherwise, an attorney of record or an unrepresented party must make~~ proof of service of any pleading, motion, or other document required to be served ~~must be made by filing~~ a certificate. ~~of an attorney of record. Such~~ **The** certificate must be either ~~endorsed upon~~ **be included in** the pleading or document served, or filed separately as soon as possible, and in any event before any action based ~~upon on~~ the service is requested or taken by the court. The certificate of service must indicate that service was accomplished through the Notice of Electronic Filing for parties and ~~counsel~~ **attorneys** who are Filing Users and indicate how service was accomplished on any party or ~~counsel~~ **attorney** who is not a Filing User.

~~(b) Identify Title.~~ **(1) Contents.** In addition to showing the date, the manner of service, and the ~~names and addresses of the persons receiving service~~ **name and address of the attorney or party served, and the capacity in which such person was serviced (i.e., as attorney for plaintiff, a particular defendant, trustee, debtor or creditor)**, the certificate must identify the title of *each* pleading or document served. For example:

I hereby certify that on this [Date], a true and correct copy of the [Title of Document(s)] was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system.

Further, I certify that copies of the [Title of Document(s)] were forwarded via U.S. Mail, first class, postage prepaid and properly addressed to the following:
[Names and addresses]

(e)(2) *Identify and Attach Matrix or List.* If the pleading or other document being served is directed to persons on a matrix or other list, the certificate must identify the matrix or list and ~~counsel~~ **attorneys or parties** must attach the matrix or list to the certificate. For example:

I hereby certify that on this [Date], a true and correct copy of the [Title of Document(s)] was electronically filed with the court using the CM/ECF system, which sent notification to all parties of interest participating in the CM/ECF system, and was forwarded via U.S. Mail, first class, postage prepaid and properly addressed to the parties' and/or ~~counsel's~~ **attorneys'** addresses on the attached matrix who do not receive notice electronically via CM/ECF.

* * *

As amended 3/17/10, 3/17/05.

LBR 9019.2 ALTERNATIVE DISPUTE RESOLUTION

The court's primary ADR procedure is mediation facilitated by a private mediator chosen by the parties. The mediation process is intended to improve communication among the parties and provide the opportunity for greater litigant involvement in ~~the earlier~~ **early dispute** resolution of disputes, with the ultimate goal of securing the just, speedy and inexpensive disposition of civil cases.

(a) General Guidelines for Alternative Dispute Resolution Processes

- (1) Any ~~alternative~~ procedure ~~employed~~ **used** to resolve a dispute pending before the United States Bankruptcy Court for the District of Kansas is governed by D. Kan. Rule 16.3, any other rules or guidelines adopted by the United States District Court for the District of Kansas, and this rule.
- (2) The judge to whom a case has been assigned may, at the earliest appropriate opportunity, encourage or require the parties and their ~~counsel who are involved in a dispute~~ **attorneys** to attempt to resolve or settle the dispute using an extrajudicial proceeding, such as mediation, a case settlement or evaluation conference, or another alternative dispute resolution process unless, in the judge's discretion, it is determined that:
 - (A) ~~It~~ **it** would be futile;
 - (B) ~~The~~ **the** mediator indicates the case is inappropriate for the process;
 - (C) ~~The~~ **the** parties agree that a request for procedural action by the court will facilitate settlement;
or
 - (D) ~~In~~ **in** the opinion/judgment of the mediator or court official, there is a danger of physical harm to any party connected with the process.
- (3) The judge may refer a case for an extrajudicial proceeding to be supervised by any other judge of the district or bankruptcy court, any retired district or bankruptcy judge, or any neutral attorney. If the parties mutually agree on a neutral non-attorney, the judge ~~shall consider and~~ may refer the case to that person. The person to whom the case is referred will generally be called "mediator" in the balance of this rule.
- (4) The mediator **will** ~~sets~~ **set** and ~~convenes~~ **convene** the first meeting between the participants, and **will** ~~files~~ **file** with the court a report on the status of the alternative dispute resolution process within 45 days of the initial appointment. As part of the mediation, case settlement, or evaluation conference process, the parties, their ~~counsel~~ **attorneys**, and the mediator discuss every aspect of the case that bears on its

settlement. The mediator ~~meets~~ **will meet** privately with each party and the party's ~~counsel~~ **attorney** to discuss the mediator's evaluation of the case. Except for good cause shown, it is mandatory that each party have a representative with settlement authority (**as defined in D. Kan. Rule 16.3**) attend the mediation, case settlement, or evaluation conference process, and ~~“with settlement authority” is defined in D. Kan. Rule 16.3.~~ The court may, ~~as it deems appropriate,~~ make this paragraph applicable to any other alternative dispute resolution process.

(5) No written statements or memoranda parties ~~may~~ submit to the mediator under this ~~order~~ **rule** will be placed in the court file. The mediator must not communicate to the judge any matter concerning the proceeding except whether the case has ~~been~~ settled or that a party or attorney has failed to appear. Fed. R. Evid. 408 governs the admissibility of statements, memoranda, and other communications made during or in connection with the extrajudicial process.

(6) Upon conclusion of the alternative dispute resolution process, either by settlement or by impasse, the mediator will communicate to the court the results of the mediation.

* * *

As amended 10/17/05, 3/17/05.

LBR 9027.1 REMOVAL/REMANDS

(a) Procedure and Fees. Fed. R. Bankr. P. 9027 controls the procedure for removal of claims or causes of action in civil actions under 28 U.S.C. § 1452. The filing of a Notice of Removal with the Clerk of Bankruptcy Court requires payment of a filing fee that will not be satisfied by the redundant filing of ~~such a~~ **the** motion with the Clerk of the District Court.

(b) Motions to Remand. A motion to remand under Fed. R. Bankr. P. 9027(d) must be served within the ~~20-day time period~~ **21 days allowed** for an answer ~~as set out in~~ **required by** Fed. R. Bankr. P. 9027(g).

* * *

As amended 3/17/10.

LBR 9029.1 AMENDMENT OF RULES

These rules may be amended as prescribed by Fed. R. Bankr. P. 9029 and Fed. R. Civ. P. 83 by publication with invitation for written comment.

* * *

LBR 9029.2 STANDING ORDERS

By vote of a majority of the judges of the United States Bankruptcy Court for the District of Kansas, the court may ~~from time to time~~ issue standing orders addressing administrative and procedural concerns or matters of temporary or local significance.

(a) Procedure. Each standing order, unless expressly made effective until further order, ~~must~~ **will** include the ~~date it is to become effective~~ **date** and the ~~date of its expiration~~ **date**. Standing orders have the same force and effect as other rules of the court. They ~~will be~~ **are** numbered consecutively by calendar year (e.g., ~~09 10-1~~ and ~~be~~ **are** cited as D. Kan. Bk. S.O. ~~09 10-1~~**2**, e.g.

(b) Notice of Issuance. Public notice of the issuance of ~~a standing orders~~ **order** will be given in ~~such the~~ manner and for ~~such the~~ time ~~as determined by the majority of the bankruptcy judges for the District of Kansas.~~ ~~Such~~ **The** notice will be given prior to the effective date of the Standing Order, except in ~~cases of~~ **emergency** **emergencies**.

* * *

LBR 9029.3 BANKRUPTCY BENCH BAR COMMITTEE

There is a Bankruptcy Bench Bar Committee appointed by the court.

(a) **Membership.** The committee ~~shall consist~~ **consists** of the chief judge, ~~such any~~ other judges as who may from time to time be appointed by the court, the United States Attorney or ~~an assistant a~~ designated **assistant** by him or her, the U.S. Trustee for Region 20, or ~~an assistant a~~ designated by him or her **assistant**, six actively practicing members of the bar of the bankruptcy court, a Chapter 13 Trustee, and a Chapter 7 Trustee, selected by the bankruptcy judges.

(b) **Terms of Office.** The court ~~shall~~ **will** appoint the six actively practicing members of the bar, the Chapter 13 trustee, and the Chapter 7 trustee to serve three year terms or ~~such~~ other lesser terms as the court may decide, to begin on July 1 of each year.

(c) **Meetings.** The Bench Bar Committee ~~shall~~ **will** meet at ~~such time~~ as it ~~shall determine~~ **determines** and at the call of **as determined by** the chief judge.

(d) **Duties.** The Bench Bar Committee ~~shall~~ **will** have general advisory and liaison roles ~~with respect to~~ **regarding** the operation of the court and ~~shall~~ **will**, among other things:

- (1) ~~Provide~~ **provide** a forum for the continuous study of the operating procedures of the court;
- (2) serve as liaison among the court, its bar and the public;
- (3) study, consider, and recommend the adoption, amendment, or rescission of the Rules of Practice of the court; and
- (4) make ~~such any~~ studies and render ~~such any~~ reports and recommendations as the court ~~shall direct~~ **directs**.

* * *

As amended 10/17/05, 3/17/05.

LBR 9072.1

EXHIBITS

(a) **Exhibits to Pleadings or Documents.** Bulky or voluminous materials ~~should~~ **must** not be submitted for filing with a pleading or document **filed in their entirety** or incorporated by reference therein; **unless the court finds** the materials are essential **and grants leave to file them**. The court may ~~order~~ **strike** any pleading or document ~~stricken if~~ filed in violation of this rule.

(b) **Preparation of Trial Exhibits.** When practical, all documentary exhibits must be prepared for trial ~~in the following manner~~ **as follows**:

- (1) Original **Attorneys or unrepresented parties must pre-mark original** exhibits ~~must be~~ premarked by counsel by affixing **with** exhibit stickers thereto. Plaintiffs or movants must use numerical symbols, e.g., 1, 2, etc. Defendants must use alphabetical symbols, e.g., A through Z, AA, BB, etc. If there is more than one plaintiff and/or defendant in the case, the surname or corporate name of the offering party must be placed on the exhibit sticker for further identification.
- (2) Copies of exhibits must be prepared for the judge and each party; the **witness will use the** original ~~will be utilized by the witness~~.
- (3) An exhibit cover sheet in form prescribed by the clerk must be prepared for each set of exhibits. The original must be placed with the clerk and copies ~~submitted~~ **provided** to the parties and the judge.
- (4) ~~Any document~~ **The court may exclude any exhibit** offered in a hearing or trial that is not clearly legible ~~may be excluded by the court~~.

(c) **Withdrawal of Exhibits.** Exhibits introduced into evidence may be withdrawn from the custody of the clerk with permission of the clerk or upon order of the court. **The clerk may destroy or dispose** of ~~Any~~ **any** exhibit not withdrawn after final disposition of the proceeding ~~may be destroyed or otherwise disposed of by the clerk~~.

(d) **Electronic Filing.** Unless otherwise directed by the court, trial **Trial** exhibits are **must** not to be filed electronically **unless the court orders otherwise**.

* * *

LBR 9074.1

JOURNAL ENTRIES AND ORDERS

(a) **Preparation of Journal Entry or Order.** Counsel shall prepare and **An attorney must** upload within ~~ten~~ **14** days a journal entry or order:

- (1) ~~When~~ **when** directed by the court to prepare the journal entry or order reflecting a judgment, decision,

or ruling; or

(2) ~~When~~ **when** the parties announce in court that a pending matter has been settled by agreement.

(b) Journal Entry or Order Submitted Without Approval of All Counsel Attorneys; Proof of Service. If approval of the Journal Entry referenced in subsection (a) cannot be obtained after a reasonable effort, ~~to obtain such approval, counsel~~ **the attorney** may upload the journal entry or order without the approval of all other ~~counsel~~ **attorneys** involved in the matter. The phrase “order submitted pursuant to D. Kan. LBR 9074.1” must appear above the signature line of any ~~counsel~~ **attorney** whose signature on the journal entry or order has not been approved.

(1) Service required. ~~Counsel~~ **The attorney** uploading a journal entry or order not approved by all ~~counsel~~ **attorneys** involved in the matter must, on the same date, serve copies ~~thereof~~ **of the order** on all other ~~counsel~~ involved. Proof of service of the uploaded journal entry or order must be established by ~~the filing of~~ **attorneys involved and on any unrepresented parties. Attorneys must establish proof of service by filing** a certificate of service in the manner prescribed by D. Kan. LBR 9013.3. The **attorney must attach the** uploaded journal entry or order ~~must be attached~~ as an exhibit to the certificate of service.

(2) Objections to entry of journal entry or order. Attorneys and unrepresented parties must file ~~Any~~ **any** objections to ~~a~~ **entry of the** journal entry or order ~~must be filed and served within ten~~ **14** days of the date ~~of~~ **after** service of the journal entry or order. The court may enter the journal entry or order if ~~an~~ **no** ~~timely~~ objection is ~~not~~ **timely** filed and served. The court will settle any objections to the journal entry or order.

(c) Inapplicability to Chapter 13 Trustee. The procedure ~~set forth~~ in subsection (b) ~~above~~ may not be used in lieu of obtaining the approval of a Chapter 13 Trustee to any journal entry or order in any Chapter 13 case. ~~If a Chapter 13 Trustee declines to approve any order, the party seeking approval of the order may file a motion requesting the court approve the order without the Chapter 13 Trustee’s approval.~~

(d) Journal Entry or Order Submitted With Approval of All Counsel Counsel Attorneys or Parties. ~~Counsel~~ **An attorney** may upload a journal entry or order without serving copies thereof when ~~all other counsel~~ **every attorney or unrepresented party** involved in the matter ~~have~~ **has** previously authorized their signatures to the specific ~~journal entry being uploaded~~ **pleading**. The court may enter the journal entry or order ~~upon~~ **on** receipt.

* * *

As amended **3/17/10**, 10/17/05, 3/17/05.