

Rule 2014-1 *Employment of Professionals.*

- (a) *Application to Employ Counsel or Other Professionals.* An application to employ counsel or other professionals must be filed with the clerk along with a verified statement of disinterestedness and a proposed order.
- (b) *Application to Employ Persons for the Sale or Lease of Estate Property.* An application for employment of an agent or broker for the sale or lease of estate property must be accompanied by a copy of the signed written contract employing the agent or broker. An application for employment of an auctioneer must be accompanied by a copy of the auctioneer's surety bond or other security. A contract for employment must provide that it is effective only upon court approval. When an applicant seeks appointment as a real estate agent or broker, as an appraiser, or as an auctioneer, the applicant must state if he or she is seeking compensation at a flat rate or on a percentage basis. Under L.B.R. 6005-1(b), an applicant for compensation at a flat rate or on a percentage basis may request the court to approve the terms of compensation without filing a separate fee application, but if applicant later requests compensation on different terms, the court must approve compensation. An application for employment under this Rule requires conformity with the notice requirements of [F.R.B.P. 2002\(a\)\(6\)](#).
- (c) *Objection by the United States Trustee.* Any objection to an application to employ must be filed by the United States trustee within seven (7) days from the date of service of the application unless the application is filed within fourteen (14) days of the filing of the petition. If the application is filed within fourteen (14) days of the filing of the petition, any objection must be filed within twenty-one (21) days of the filing of the petition.

Rule 2016-2 Compensation of Debtors' Attorneys in Chapter 13 Cases

The provisions of this rule shall apply to all chapter 13 cases filed on or after October 1, 2014.

- (a) *Rights and Responsibilities Agreement.* Unless otherwise ordered by the court, in all chapter 13 cases in which a debtor(s) is represented by an attorney, the debtor(s) and the attorney must execute the Rights and Responsibilities Agreement as set forth in [L.B.F. 2016-2\(a\)](#). Counsel must retain the original Agreement in the case file and provide a fully executed copy to the debtor(s).
- (b) *General Rule.* Except as provided in L.B.R. 2016-2(c), an attorney representing a debtor(s) in a chapter 13 case must file an application for approval of compensation in order to be paid for all services rendered after the filing of the case. The fee application must comply with L.B.R. 2016-1, except the information required under (a)(1) and (a)(8) of that rule may be omitted. A model fee application form for use by attorneys representing chapter 13 debtor(s) is set forth in [L.B.F. 2016-2\(b\)](#) (“lodestar fee”). The attorney must also file a certification that a Rights and Responsibilities Agreement ([L.B.F. 2016-2\(a\)](#)) has been executed by the attorney and by the debtor(s). Filing of the certification may be accomplished by a virtual entry in the ECF system. After the petition is filed, an attorney may not receive payment of fees except through the chapter 13 plan, unless payment is otherwise approved by the court.
- (c) *Presumptively Reasonable Fees.* When the Rights and Responsibilities Agreement provides for the payment of the presumptively reasonable fee, the attorney may receive compensation in the maximum amount of \$4000.00. Further, no fee application is required to be filed where the presumptively reasonable fee is agreed to. In such case, the attorney is only required to file [L.B.F. 2016-2\(c\)](#) - Request for Payment of Chapter 13 Compensation and Expenses, with parts A and C completed. If the chapter 13 trustee requires the debtor(s) to file a business report, or if the debtor(s) holds a controlling interest in a corporation or LLC operating a business, an attorney may receive additional compensation in the maximum amount of \$1000.00 without seeking approval from the court. An attorney representing a consumer debtor(s) who proposes to make mortgage payments through a chapter 13 plan (“conduit plan”) may receive additional compensation of \$500.00, without seeking approval from the court. When an attorney agrees to accept a presumptively reasonable fee, all covered legal services rendered by the attorney through confirmation of the plan, must be included in the fee, except as provided in paragraph (e). Approval of the allowance of a presumptively reasonable fee will be considered by the court at confirmation and any approval will be given by virtue of the entry of the confirmation order. Consideration of the allowance of a fee for the preparation, filing, and defense of a modified plan will be given by virtue of the entry of the order granting or denying the motion to modify.

- (d) *Indication of Type of Fee in Plan.* The attorney for the debtor must indicate in section 3B of the model plan ([L.B.F. 3015-1](#)) whether the attorney seeks the presumptively reasonable fee or the lodestar fee.
- (e) *Additional Fees.* An attorney who has agreed to accept a presumptively reasonable fee may request additional fees under L.B.R. 2016-2(b) for services rendered after confirmation of the plan or in connection with adversary proceedings. In the event that an attorney determines that services required to be rendered before confirmation of plan exceed normal and customary services in a chapter 13 case, the attorney may seek approval of additional fees under L.B.R. 2016-2(b).
- (f) *Post-Confirmation Modification Plans.* An attorney who has agreed to payment of the presumptively reasonable fee may receive additional compensation of \$500.00 for each post confirmation plan modification which is filed, without seeking approval from the court.
- (g) *Payment of Fees Through Plan.* An attorney who has agreed to be paid through a proposed plan must file a Request for Payment of Chapter 13 Compensation and Expenses ([L.B.F. 2016-2\(c\)](#) (“Request for Payment”)) no later than seven (7) days before the confirmation hearing on the plan. Failure to timely file a Request for Payment may result in a delay of confirmation of the chapter 13 plan. In the event the confirmation hearing is continued, the Request for Payment is not required to be refiled, if no additional fees are requested. When additional fees are requested, a new Request for Payment must be filed no later than seven (7) days before the continued confirmation hearing.

COMMENTS: *Effective September 1, 2015, former L.B.R. 2016-2(h) was repealed because it conflicted with the Supreme Court decision Harris v. Viegelahn, 135 S.Ct. 1829 (2015).*

L.B.R. 2016-2 is being adopted as of September 1, 2014, to provide for specific procedures for the approval of attorneys’ fees in chapter 13 cases. The new rule will apply to chapter 13 cases which are filed on or after October 1, 2014. The general rule will be applicable to attorneys who have agreed to provide services using the lodestar approach. A fee application form is adopted as [L.B.F. 2016-2\(b\)](#). To provide a more efficient means of approving fees in chapter 13 cases, a presumptively reasonable fee is being adopted; this will enable attorneys to obtain approval for fees in certain amounts without filing a fee application. The rule also adopts a Rights and Responsibilities Agreement form to be completed by all represented debtor(s) and their attorneys. The Agreement specifies the services an attorney will perform, if required under the circumstances of a particular case, as well as the responsibilities of the debtor(s) to assist in the prosecution of the case. The Agreement also will specify the compensation arrangements agreed to by the debtor(s) and the attorney. The rule also provides for a

Request for Payment of Chapter 13 Compensation and Expenses to be filed prior to confirmation to allow the chapter 13 trustee to determine the amount of fees that will be paid through the plan. ~~The rule also provides that when a case is converted or dismissed and the chapter 13 trustee is required to return payments made to the debtor(s), counsel may request the payment of outstanding attorneys' fees.~~

Rule 3007-1 Claims - Objection.

- (a) *Contents.* An objection to the allowance of a claim must list in the caption or the pleading the claim number recorded on the claims register and state particular grounds for the objection, including but not limited to:
- (1) whether the claim should be disallowed in its entirety;
 - (2) whether the claim should be allowed in an amount different from that requested; or
 - (3) whether the classification of the claim (secured, priority unsecured, general unsecured) is incorrect.
- (b) *Separate Objection.* As set forth in subdivision (c) and (d) of this rule, a separate objection and a notice that substantially conforms with L.B.F. 3007-1 must be filed for each claim objected to, except for omnibus objections filed pursuant to F.R.B.P. 3007(d).
- (c) *Filing and Notice ~~for ECF Filers~~.* The objecting party must serve the objection to claim and a notice of same using L.B.F. 3007-1 (Notice of Objection to Claim and Deadline to Request Hearing) upon the persons specified under F.R.B.P. 3007(a)(2)(B). Unless otherwise ordered by the court, a hearing on the objection to claim will not be scheduled unless the claimant files a request for hearing or response to the objection no later than thirty (30) days from the date the notice is served. If required, a certificate of service substantially conforming to L.B.R. 9013-2 must also be filed.
- ~~(d) — *Filing and Notice for Non-ECF Filers.* A non-ECF filer must file an objection to the allowance of a claim with the clerk's office. Within five (5) days after filing the objection, the non-ECF filer must mail a copy of the objection to the claimant as set forth in F.R.B.P. 3007(a)(2)(A). A certificate of service which complies with L.B.R. 9013-2 and demonstrates service as indicated above must then be filed with the clerk's office within five (5) days of service. After the certificate of service is filed, the clerk will issue and send a notice using L.B.F. 3007-1 (Notice of Objection to Claim and Deadline to Request Hearing) to the persons specified under F.R.B.P. 3007(a)(2)(B). Unless otherwise ordered by the court, a hearing on the objection to claim will not be scheduled unless the claimant files a request for hearing or response to the objection no later than thirty (30) days from the date the notice is served.~~

COMMENTS: L.B.R. 3007-1 was amended effective December 1, 2018⁷, to eliminate subdivision (d), which provided for special service requirements for non-ECF filers. This amendment was necessary to conform to new F.R.B.P. 3007, which became effective December 1, 2017. New F.R.B.P. 3007(a) was amended to specify the manner in which an objection to a claim and notice of the objection must be served. The new rule provides

specific instruction in cases where the claimant is the “United States or any of its officers or agencies” or an “insured depository institution”. Changes to subdivisions (c) and elimination of subdivision (d) of the L.B.R. 3007-1 were necessary to incorporate these new provisions of F.R.B.P. 3007. ~~The burden of service established by prior L.B.R. 3007-1 has been preserved.~~ Changes to subdivision (b) reflect the new requirement that any “notice of objection” must “substantially conform to the appropriate Official Form”. Likewise, amendments to subdivision (ce) of L.B.R. 3007-1 have been made to incorporate amendments to subdivision (a) of new F.R.B.P. 3007, which no longer requires that a hearing be scheduled or held on every objection. The rule now requires the objecting party to provide notice and an opportunity for the hearing on the objection and requires the claimant to timely request a hearing or file a response in order to obtain a hearing. Amended L.B.F. 3007-1, which must be served with a copy of the objection, informs the claimant of the actions it must take to request a hearing.

Rule 5005-1 Filing and Transmittal of Papers.

(a) *Electronic Filing and Signing.*

- (1) *By a Represented Entity.* An entity represented by an attorney must file, ~~sign, and verify~~ documents by electronic means in accordance with the [Administrative Procedures](#) available on the court's website (www.pamb.uscourts.gov). However, non-electronic filing may be allowed for good cause, or as otherwise provided for by these rules;
- (2) *By an Unrepresented Individual.* An individual not represented by an attorney:
 - (A) may file electronically only if allowed by court order or through compliance with the conditions authorizing same as set forth in the [Administrative Procedures](#) adopted by this District; and
 - (B) may be required to file electronically only by court order or as otherwise provided for in the [Administrative Procedures](#) adopted by this District.
- (3) *Signing.* ~~An authorized filing through a personal electronic filing account, together with the person's name on the signature block, constitutes the person's signature for purposes of F.R.B.P. 9011 ;~~
 - ~~(A) — an electronic signature must be preceded by "s/", e.g., "s/John Doe."; and~~
 - ~~(B) — Documents that are electronically filed and require original signatures or require verification under [F.R.B.P. 1008](#) or contain an unsworn declaration under [28 U.S.C. 1746](#), must be maintained in paper form by the filing user for 7 years as set forth in the [Administrative Procedures](#) adopted by this District;~~
 - ~~(4) — Same as a Written Paper. A paper filed electronically is a written paper for purposes of these rules, the [Federal Rules of Bankruptcy Procedure](#), and [Section 107](#) of the Code.~~

- (b) *Filing Proofs of Claims.* Notwithstanding the requirements of L.B.R. 5005-1(a), pursuant to [Miscellaneous Order 5:14-mp-00003](#), claims may be filed, amended, or withdrawn through the court's Electronic Proof of Claim (ePOC) system without the need to register or login as a user in the court's ECF system (CM/ECF). Any claim filed, amended, or withdrawn electronically through the ePOC system will constitute the filer's approved signature and have the same force and effect as if the authorized individual signed a paper copy of the proof of claim form, amendment, or withdrawal.

- (c) *Temporary Paper Filing.* An attorney who is not a registered CM/ECF filer may file initial papers in person, by facsimile, or by email after seeking permission from the court as set forth in [Miscellaneous Order 5:05-mp-50007](#). Before any additional papers are filed, the attorney must apply for and obtain a CM/ECF login and password. Registration may be completed through the court's website: www.pamb.uscourts.gov using "Electronic Filing Registration" under the Court Info tab.
- (d) *CM/ECF Filer Systems Failure.* A registered CM/ECF filer may file papers in person, by facsimile, or by email for up to seventy-two (72) hours when electronic filing is not possible due to a failure in the CM/ECF filer's systems, including, without limitation, hardware, software, or internet connection. Any filing made by means other than CM/ECF must be accompanied by an affidavit stating why the document was not filed electronically.

COMMENTS: *L.B.R.5005-1 was amended effective December 1, 2018⁷, to conform to new F.R.B.P. 5005. ~~formally adopt the electronic filing requirements set forth the Administrative Procedures adopted by this District.~~ Reasonable exceptions are recognized and paper filing is still allowed for good cause. Compelling pro se litigants to file electronically is unrealistic and may impede their access to the court. Therefore, filings by an individual not represented by an attorney are treated separately. Rather than mandate electronic filing, pro se litigants can only be required to file electronically by court order, or as otherwise provided for in the [Administrative Procedures](#) adopted by this District. ~~L.B.R. 5005-1 tracks proposed changes to F.R.B.P 5005(a)(2) which are designed to make the rule consistent with the proposed amendment to Federal Rule of Civil Procedure 5(d)(3).~~*

Rule 7005-2 *Service through Court's Transmission Facilities.*

A party may use the court's transmission facilities to make service under F.R.C.P. 5(b)(2)(E).

COMMENTS: L.B.R. 7005-2 was adopted effective December 1, 2017, and formally adopts use of the court's transmission facilities to make service as allowed and provided for by F.R.C.P. 5.

Rule 9010-1 Attorneys - Notice of Appearance.

- (a) *General Appearance.* An attorney who files with the clerk any application, motion, stipulation, or other document, other than as set forth in subdivision (b), is deemed to have entered an appearance for the party on whose behalf the document is filed.
- (b) *Limited Appearance.* An attorney filing a proof of claim or interest is deemed to have entered an appearance only for the purpose of any objection that may be filed to that claim.
- (c) *Change of Address.* When attorneys or parties representing themselves change their e-mail or physical addresses, they are required to provide notification as follows:
 - (1) Electronic filers must immediately update their addresses in the ECF system. If an address change is in a specific case, electronic filers must docket a Change of Address in each case in which the change should appear to enable the clerk to update the information.
 - (2) Paper filers must notify the clerk in writing of their new address so that the clerk may enter it in the ECF system. If an attorney has entered an appearance in more than one case, he also must file with the clerk a listing of all such cases so the new address may be entered by the clerk on the docket of each case.
- (d) *Withdrawal of Appearance.* The debtor's attorney or an attorney in a pending adversary or contested matter may not withdraw his or her appearance except upon motion, after hearing and by order of the court, unless another attorney eligible to appear before the court enters his or her appearance simultaneously with the request for withdrawal of appearance. ~~If an attorney leaves a law firm and the firm remains counsel for certain cases, the law firm must submit a list of cases that the firm is retaining with its current address.~~ If the firm has not entered an appearance in a case, it must enter an appearance in the cases it is retaining. An attorney may not submit a change of address as a substitute for filing a motion to withdraw.
- (e) *Notice to Parties.* Unless service is made electronically through the ECF system, an attorney who files a request to note change of address must mail a copy of same to any attorney who has entered an appearance in an adversary proceeding or contested matter that is pending at the time the request is filed.

Rule 9013-2 *Certification of Service.*

Each document filed with the court, except for those served through the court's electronic filing system, must include a certificate of service containing the following information ~~as to any paper filers on which service has been made~~:

- (a) the title of the paper served;
- (b) the names and addresses of all persons upon whom the paper has been served;
- (c) the entities the persons served represent; and
- (d) a description of when and how service was made.