

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

In Re:

**LOCAL RULES OF THE UNITED STATES
BANKRUPTCY COURT FOR THE MIDDLE
DISTRICT OF PENNSYLVANIA**

* Debtors

Misc. No.: 5-04-mp-50010 (District-wide)

ORDER AMENDING LOCAL COURT RULES

IT IS HEREBY ORDERED that the attached shall constitute the Local Rules of the United States Bankruptcy Court for the Middle District of Pennsylvania further amending the Local Bankruptcy Rules previously adopted by the judges of this Court. The amended Local Bankruptcy Rules are effective May 1, 2012. The judges of this Court amend the Local Bankruptcy Rules pursuant to Federal Rule of Bankruptcy Procedure 9029 and under the authority of the United States District Court for the Middle District of Pennsylvania to be used in conjunction with the Federal Rules of Bankruptcy Procedure in all cases and proceedings under title 11 of the United States Code, except as otherwise ordered by the presiding judge in a case or proceeding.

By the Court,



Chief Bankruptcy Judge

Date: April 3, 2012

April 3, 2012



By the Court,



Date: April 3, 2012

Robert N. Opel, II, Bankruptcy Judge
(BI)

[*** Click here to access the Local Bankruptcy Forms \(as *one* PDF file\) ***](#)

[** Click here to access the Local Bankruptcy Forms \(as *separate* fillable PDF files\) **](#)

UNITED STATES BANKRUPTCY COURT MIDDLE DISTRICT OF PENNSYLVANIA



LOCAL BANKRUPTCY RULES

Effective: January 1, 2005

(Modified: ~~December 1, 2011~~ **May 1, 2012**)

**LOCAL BANKRUPTCY RULES
MIDDLE DISTRICT OF PENNSYLVANIA**

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**LOCAL BANKRUPTCY RULES
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**PART I
COMMENCEMENT OF CASE; PROCEEDINGS
RELATING TO PETITION AND ORDER FOR RELIEF**

Rule 1001-1 *Local Rules - General.*

- (a) *Scope.* The Local Bankruptcy Rules and Local Bankruptcy Forms are adopted to govern the practice and procedure before the United States Bankruptcy Court for the Middle District of Pennsylvania.
- (b) *Short Title.* These rules may be cited and referred to as the Local Bankruptcy Rules (or “L.B.R.”) and the forms as the [Local Bankruptcy Forms](#) (or “L.B.F.”).

Rule 1002-1 *Petition - General.*

- (a) *Unsigned Petition.* The clerk must accept for filing any petition in bankruptcy. If a petition is not signed by either the petitioner or counsel, a signed document must be filed within seven (7) days or the petition may be dismissed. The clerk will notify the party of the deficiency and the deadline by which the deficiency must be cured.
- (b) *Petition Submitted by Facsimile.* A petition may not be filed by facsimile unless prior approval has been obtained from the court. The court will not approve a filing by facsimile except in an emergency, as determined by the court.

Rule 1006-1 *Fees - Installment Payments and Waiver.*

- (a) *Petitions.* Each petition must be accompanied by the prescribed filing fee, including the miscellaneous fee, unless the petition is accompanied by an application to pay these fees in installments, or for a waiver in accordance with [F.R.B.P. 1006\(c\)](#). If a petition is filed without the required fee, without an application to pay in installments, or without a request for waiver, it is considered deficient and may be dismissed if the fee is not paid within seven (7) days. The court may dismiss a case without further notice if the approved installments are not paid when due.
- (b) *Other Filings.* The clerk must accept all pleadings for filing regardless of whether the fee required by the bankruptcy court fee schedule is paid. If the required fee is not paid at the time the pleading is filed, the clerk will notify the filing party that the party has seven (7) days to pay the fee or the pleading may be stricken by the court. Current information regarding fees and the number of copies required by the clerk may be found on the court’s website (www.pamb.uscourts.gov).

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Rule 1007-1 *Lists, Schedules, Statements, Plans, and Other Documents.*

- (a) *Motion.* A motion for an extension of time to file lists, schedules, statements, plans, or other required documents must be filed with the court within fourteen (14) days of the entry of an order for relief or before any previously granted extension expires. If the motion is untimely, the court may deny the motion and dismiss the case. The motion must state why the extension is needed and be served on the unsecured creditors' committee and any examiner if one has been appointed.
- (b) *Objection to Extension.* An objection to an extension of time must be filed within seven (7) days of service of the motion requesting the extension.
- (c) *Certification of No Payment Advices.* If a debtor does not receive payment advices, he must file a certification ([L.B.F. 1007-1\(c\)](#)) within the time specified in [F.R.B.P. 1007\(c\)](#). Nothing in this rule is intended to create an exception to the requirements of [11 U.S.C. § 521](#) or [F.R.B.P. 1007](#).

Rule 1007-2 *Mailing List or Matrix.*

- (a) *Mailing Matrix Required.* Unless filed electronically through the ECF system, the debtor must file with the petition a master list of creditors and other parties in interest ("mailing matrix") in the form prescribed by the clerk. Failure to file the matrix may constitute cause for dismissal of the case.
- (b) *Form of Paper Mailing Matrix.*
 - (1) The mailing matrix must be filed with the petition in paper form as prescribed by the clerk.
 - (2) Mailing matrices must be prepared so that each address is contained within five (5) lines, with each line not exceeding forty (40) characters (including spaces).
- (c) *Electronically Filed Cases.* Electronic filers must comply with the instructions found on the court's website (www.pamb.uscourts.gov) when entering the matrix docket event and uploading creditors into the ECF system in lieu of filing a paper matrix.
- (d) *Accuracy of Mailing Matrix.* The debtor is responsible for the accuracy and completeness of the mailing matrix. If debtor's counsel or a pro se debtor is notified by the Bankruptcy Noticing Center (BNC) that the creditors' meeting notice was not served on a party because of an incomplete address, counsel or the pro se debtor must notify the clerk in writing of the correct address and must refile the notice to the affected party.

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Rule 1007-3 *Summary of Schedules and Statistical Summary of Certain Liabilities and Related Data.*

A debtor shall timely complete and file both the Summary of Schedules and the Statistical Summary of Certain Liabilities and Related Data, as provided for in the current Official Bankruptcy Forms.

Rule 1009-1 *Amendments to Voluntary Petitions, Lists, Schedules, and Statements.*

- (a) *Notice.* An amendment to a voluntary petition, schedule, or statement must be served on any official committee and any affected entity or creditor. The debtor must file a certification that service has been made on these parties.
- (b) *Requirements.* An amendment must contain:
 - (1) the caption of the case;
 - (2) the case number; and
 - (3) a title including the word “AMENDED” or “AMENDMENT.”
- (c) *Form.* An amendment to a schedule or statement must be filed in a format similar to the original Official Form and include only the additions or deletions to the schedule or statement. The change must be prefaced by the statement: “ADD” or “DELETE.” An entire set of statements and schedules should not be refiled.
- (d) *Electronically Filed Amendments.* Debtor’s counsel must comply with the instructions found on the court’s website (www.pamb.uscourts.gov) regarding uploading any new creditors into the ECF system.

Rule 1015-1 *Joint Administration/Consolidation.*

- (a) *Joint Administration.*
 - (1) *Motion.* A request for joint administration must be made by motion. For each case subject to the motion, movant must serve the motion and notice of the answer date on:
 - (A) the debtor;
 - (B) all secured creditors;

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- (C) all parties in interest who have filed a request to receive copies and notices; and
 - (D) any creditors' committee. If there is no creditors' committee, then the motion must be served as specified in [F.R.B.P. 1007\(d\)](#).
- (2) *Passive Notice.* Notice of the filing of a motion for joint administration must provide for a twenty-one (21) day objection period. If no objection is filed within twenty-one (21) days, the court may enter the order. A hearing will be set only upon filing of a timely objection to the motion.
- (b) *Substantive Consolidation.* A request for substantive consolidation must be made by motion. The movant must serve the motion on all parties in interest. The notice must provide for a twenty-one (21) day objection period. A hearing will be set even if no objections are filed.
- (c) *Severance or Deconsolidation.*
- (1) A request to deconsolidate cases that have been substantively consolidated must be made by motion. A hearing will be held on a motion to deconsolidate substantively consolidated cases. The movant must serve notice of the filing of the motion and the hearing on all parties in interest.
 - (2) A request to sever jointly administered cases must be made by motion. The movant must serve notice on the debtor, all secured creditors, all parties who have specifically asked to receive copies and notices, and the creditors' committee. If there is no creditors' committee, then the motion must be served on the parties named on the list filed pursuant to [F.R.B.P. 1007\(d\)](#) (twenty largest unsecured creditors). No hearing will be held on a motion to sever jointly administered cases unless an objection to the motion is filed within fourteen (14) days of service.

COMMENTS: *L.B.R. 1015-1 was amended effective October 15, 2010, to eliminate subparagraph (c)(3). The amendment reflects the present capability of CM/ECF to dismiss a debtor from a joint case without requiring case severance.*

Rule 1017-2 *Reinstatement of Dismissed Case.*

- (a) A motion to reinstate a dismissed case must be in writing. If the court sets a hearing on the motion, notice of the date by which objections must be filed and the hearing date must be served on the following:
 - (1) the debtor; and

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(2) all parties previously notified of the dismissal under [F.R.B.P. 2002\(f\)\(2\)](#).

(b) Any motion to reinstate a dismissed case may be granted summarily.

COMMENTS: Subparagraph (a) was eliminated effective December 1, 2011, as self-scheduling of all contested matters is now provided for in L.B.R. 9002-1.

Rule 1019-1 *Final Reports in Cases Converted from Chapter 13 to Chapter 7.*

Pursuant to [F.R.B.P. 1019\(5\)\(B\)](#), the chapter 13 trustee must file a final report and account within sixty (60) days after conversion of the case.

Rule 1071-1 *District Boundaries and Divisional Offices.*

- (a) The Middle District of Pennsylvania is comprised of the following counties as set forth in [28 U.S.C. § 118\(b\)](#): Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.
- (b) For the purpose of accepting bankruptcy petitions, conducting hearings, and all other court business, the Middle District is organized under geographical divisions of Wilkes-Barre, Harrisburg, and Williamsport. Subject to court discretion, the counties listed in subsection (a) above are assigned to these divisions, with specific county assignment posted on the court's website under the "County Maps" link. (www.pamb.uscourts.gov).

Rule 1071-2 *Assignment of Cases.*

- (a) Upon filing, the clerk shall assign bankruptcy cases to a bankruptcy judge within this District by random blind draw so that no party, their attorneys, or the public at large is able to make a deliberate choice of a particular judge.
- (b) The provisions of L.B.R. 1071-2(a) do not apply to cases filed under chapter 9. These cases are assigned to a bankruptcy judge by the Chief Judge of the Third Circuit Court of Appeals pursuant to [11 U.S.C. § 921\(b\)](#).

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**PART II
OFFICERS AND ADMINISTRATION; NOTICES;
MEETINGS; EXAMINATIONS; ELECTIONS; ATTORNEYS
AND ACCOUNTANTS**

Rule 2002-1 *Notice to Creditors and Other Interested Parties.*

- (a) *Passive Notice.* A notice served under [F.R.B.P. 2002\(a\)\(3\), \(6\), \(7\), or \(8\)](#) must provide that if no objections are filed by the objection deadline, the court may grant the relief requested. No hearing date will be included in the notice unless a written request is filed.
- (b) *Notice to Parties in Interest.* In a case filed under any chapter, a proponent must give notice to all parties in interest as required under [F.R.B.P. 2002\(a\)\(2\), \(4\), \(5\), and \(6\)](#). In a chapter 11 case, a proponent also must give the notice required by [F.R.B.P. 2002\(b\)](#) and [\(d\)](#).
- (c) *Notice by Chapter 7, 12, or 13 Trustee.* The clerk will serve any notice required to be served on all parties in interest by a chapter 7, 12, or 13 trustee.
- (d) *Notice of § 341(a) Meeting.*
 - (1) *General Rule.* The clerk must serve notice of a meeting under [11 U.S.C. § 341\(a\)](#) on all parties in interest listed on the mailing matrix.
 - (2) *Amended Mailing Matrix.* The debtor must serve notice of a meeting under [11 U.S.C. § 341\(a\)](#) on all parties in interest added to the mailing matrix after notice of the meeting has been served pursuant to L.B.R. 2002-1(d)(1).
 - (3) *Notice of Rescheduled or Continued Meeting.* If the meeting under [11 U.S.C. § 341\(a\)](#) is rescheduled, notice must be given to all parties in interest by the clerk.
 - (4) *Chapter 13 cases.* In a chapter 13 case, notice of the meeting under [11 U.S.C. § 341\(a\)](#) must include instructions on filing a proof of claim under L.B.R. 3001-1.
- (e) *Notice to Equity Security Holders.* The debtor must provide notice of the order for relief and any other notices required under [F.R.B.P. 2002\(d\)](#) to its equity security holders.
- (f) *Certificate of Service.* The certificate of service showing compliance with this Rule must be filed with the clerk no later than seven (7) days following the date of service.

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Rule 2003-1 *Meeting of Creditors and Equity Security Holders.*

- (a) *Date and Place.* Any request to deviate from the general requirement that a debtor personally appear at a meeting under [11 U.S.C. § 341\(a\)](#) must be made first to the United States trustee, or his designee. If the United States trustee denies the request, the debtor may file a motion with the court.
- (b) *Attendance.* Debtor's attorney should accompany debtor to a meeting under [11 U.S.C. § 341\(a\)](#). If a debtor's attorney is unable to attend, he or she must arrange for a partner, member, or regular associate of his or her firm to serve as counsel or for another attorney to attend, if permitted under the Pennsylvania Rules of Professional Conduct.
- (c) *Adjournment.* The requirement, pursuant to [F.R.B.P. 2003\(e\)](#), that the presiding official file a statement specifying the date and time to which a meeting of creditors is adjourned may be satisfied by using the Continued feature within the trustee interface of CM/ECF.

Rule 2004-1 *Depositions and Examinations.* The court will consider a motion under [F.R.B.P. 2004\(a\)](#) fourteen (14) days after service on the respondent. If no objection or answer is filed within fourteen (14) days, an order may be entered by the court. The order may be entered immediately if the motion contains a certification that the respondent has agreed to submit to the examination.

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. 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\(a\)\(6\)](#).

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- (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 2016-1 *Compensation of Professionals.*

- (a) *Cover Sheet.* A fee application must include a cover sheet that provides the court with a summary of the fee application. The cover sheet must conform substantially to [L.B.F. 2016-1](#).
- (b) *Fee Applications.* A fee application must include:
- (1) the date of the order appointing the professional;
 - (2) a statement indicating whether the application is for final or interim compensation and expenses, the total amounts requested, and the time period for the services rendered;
 - (3) the date and amount of previous compensation, if any, including any retainers paid;
 - (4) a chronological listing of services performed. Whenever applicable, the listing should include:
 - (A) an identification of the subject matter of any correspondence or phone call together with the party with whom that communication occurred;
 - (B) an identification of the subject matter of and parties involved in any hearing or trial, if the service involved is attendance at a hearing or trial;
 - (C) an identification of any pleading drafted; and
 - (D) the date the service or expense was incurred and the time expended, in tenths of hours, for the service rendered;
 - (5) an itemization of the expenses for which reimbursement is requested;

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- (6) an allegation that the professional is a disinterested person and has not represented or held an interest adverse to the interest of the estate on the matter on which he or she was employed in compliance with [11 U.S.C. § 327\(a\)](#);
 - (7) for applications filed on behalf of attorneys, a history of the case in narrative form. The history should include, if applicable:
 - (A) a description of the debtor's financial situation when the case was filed;
 - (B) a description of significant events that have occurred post-petition;
 - (C) a description of specific issues that the debtor is required to resolve before a plan can be confirmed or the case otherwise resolved (for example, liquidation of real estate or resolution of pre-petition litigation);
 - (D) the status of any specific issues and their resolution; and
 - (E) items that need to be completed before the case can be confirmed or otherwise brought to a conclusion;
 - (8) a certification that the entity on whose behalf the applicant is employed has been given the opportunity to review the application and whether that entity has approved the requested amount;
 - (9) the names and hourly rates of all applicant's professionals and paraprofessionals who billed time. This should be accompanied by an explanation of any changes in hourly rates from those previously billed; and
 - (10) a proposed order of the court approving the application.
- (c) *Categorical Listing of Services.*
- (1) In a case under any chapter in which the total aggregate amount requested for compensation by a professional is in excess of \$100,000.00, the applicant must include a categorical listing of services. Appendix 2016-1 provides a non-exclusive list of suggested project categories.
 - (2) The description of each category must include the following information:
 - (A) a heading generally describing the services within the category;
 - (B) a narrative summary that:

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- (i) describes the project and its status, including all pending litigation for which compensation and reimbursement are requested; and
 - (ii) states the number of hours spent and the amount of compensation requested for each professional and paraprofessional on the project.
- (d) *Non-Attorney Professionals Compensated on Non-Hourly Basis.* If the court has previously entered an order approving the employment of a non-attorney who is customarily paid on a non-hourly basis and whose terms of compensation the court has approved as provided in L.B.R. 2014-1(b), then no application for compensation is required for such non-attorney.

Rule 2090-1 *Attorneys - Admission to Practice.*

- (a) *General Admission.* Except as provided below, no attorney may appear on behalf of another unless first admitted to practice in the United States District Court for the Middle District of Pennsylvania.
- (b) *Admission Pro Hac Vice.* An attorney who is admitted to practice before any United States district court and the highest court of any state or the District of Columbia and who is a member of the bar in good standing in every jurisdiction where admitted to practice, and who is not subject to pending disciplinary proceedings in any jurisdiction, may be admitted to practice before this court, but only for the purpose of a particular case and not generally under subdivision (a). A request for admission under this subdivision must be made by written motion of a member of the bar of this court or by the attorney intending to practice before this court. The court in its discretion may grant an oral motion for admission made in open court.

Rule 2090-2 *Attorneys - Discipline and Disbarment.*

- (a) *Suspension or Disbarment from Practice.* This court has the power and authority to govern, control, and discipline the conduct of attorneys appearing before it, including the power to suspend or disbar attorneys from practice before it.
- (b) *Failure to Appear.* An attorney who fails to appear without just cause on a matter before the court or as counsel for a debtor fails to attend the debtor's § 341(a) meeting, may be subject to discipline by the court.
- (c) *Failure to Prepare.* An attorney who, without just cause, fails to adequately prepare for any pretrial conference, hearing, or trial may be subject to discipline by the court.

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**PART III
CLAIMS AND DISTRIBUTION TO CREDITORS AND
EQUITY INTEREST HOLDER; PLANS**

Rule 3001-1 *Claims and Equity Security Interests - General.*

- (a) *Proof of Claim - Contents.* Any proof of claim filed must substantially comply with the Official Form and [F.R.B.P. 3001](#).
- (b) *Proof of Claim - Service.* In a chapter 7 asset case, a chapter 12 case, or a chapter 13 case, a claimant must serve a copy of its proof of claim, with all attachments, on a pro se debtor.

COMMENTS: L.B.R. 3001-1 was amended effective December 1, 2011 to avoid repetition of the provisions of [F.R.B.P. 3001](#) and to incorporate the requirements of [F.R.B.P. 3001\(c\)](#) for proofs of claim filed in individual debtor cases.

Rule 3002-1 *Filing Proofs of Claim in Closed Cases.* Unless filed electronically, any proof of claim received by the clerk in a closed case will be returned to the claimant and marked: “Not Filed, Case Closed.”

Rule 3003-1 *Filing Proofs of Claim in Chapter 11 Cases.* In chapter 11 cases, notice of a deadline for proofs of claim must be given in the following manner:

- (a) *Party Request.* A party requesting the court to set a date within which claims must be filed must provide notice of the bar date and a form of proof of claim to all creditors.
- (b) *Sua Sponte.* If the court *sua sponte* sets a date within which claims must be filed, the clerk must provide notice of the bar date and a form of proof of claim to all creditors.

Rule 3004-1 *Filing of Proofs of Claim by Debtor or Trustee.* A debtor or trustee filing a proof of claim in the name of a creditor under [F.R.B.P. 3004](#) must file an original and serve a copy on the creditor.

Rule 3005-1 *Filing of Proofs of Claim by Codebtor.* A codebtor filing a proof of claim in the name of a creditor under [F.R.B.P. 3005](#) must file an original and serve a copy on the creditor, any codebtors, and the debtor.

Rule 3006-1 *Claims - Withdrawal.* A request to withdraw a claim must state:

- (a) whether an objection to the claim was filed;
- (b) whether a complaint was filed against the claimant; and

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- (c) whether the claimant has accepted or rejected a plan or otherwise participated significantly in the case.

Rule 3007-1 *Claims - Objection.*

- (a) *Contents.* An objection to 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.
- (4) A separate objection must be filed for each claim objected to, except for omnibus objections filed pursuant to [F.R.B.P. 3007\(d\)](#).

(b) *Notice of Objection.*

- (1) The objection, with a notice advising the claimant of the opportunity to request a hearing, must be served on the claimant, the debtor, and any other affected party in interest.
- (2) The notice, conforming substantially to [L.B.F. 3007-1](#), must be dated as of the date of mailing and must advise the claimant that:
 - (A) the claimant may file an amended proof of claim, a response to the objection, or a request for hearing with the court within thirty (30) days after the date of the notice;
 - (B) the claimant is entitled to have a hearing on the objection if the claimant has filed a written response to the objection, or a written request for a hearing with the court within thirty (30) days after the date of the notice;
 - (C) if requested by the claimant, the court may allow the claimant to participate in the hearing by telephone; and
 - (D) the court may sustain the objection and disallow or modify the claim without further notice or hearing if the claimant does not file an

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amended proof of claim, a response to the objection, or a request for hearing within thirty (30) days after the date of the notice.

- (c) *Hearing.* If the claimant files either a timely answer or a request for hearing on the objection to claim, the clerk will set a date for the hearing on the objection.
- (d) *Entry of Default Judgment.* If the claimant does not file an amended claim, an answer, or request for hearing on the objection to claim within thirty (30) days of the date of the notice, the party filing the objection may move the court for a default judgment without further notice to the claimant.

Rule 3010-1 *Small Dividends in Chapter 13 Cases.* The chapter 13 trustee may make payments of amounts less than \$15.00 to a creditor.

Rule 3015-1 *Chapter 13 - Model Plan.*

- (a) *Use of Plan Form.* In chapter 13 cases, the plan must be filed in substantial conformity with [L.B.F. 3015-1](#).
- (b) *Service.* If a chapter 13 plan includes either a motion to value collateral or a motion to avoid a lien, service of the plan must be made on affected parties under [F.R.B.P. 9014\(b\)](#).

Rule 3015-2 *Chapter 13 - Amendments to Plans.*

- (a) *Numbering.* Amended plans must be numbered sequentially beginning with "First Amended Plan."
- (b) *Amendments to the Plan Prior to Confirmation.* Once a plan has been filed, any changes to the plan proposed by the debtor must be made by filing an amended plan and not by filing a stipulation between the affected parties.
- (c) *Service of Amended Plan - Pre Confirmation.* If an amended plan is filed after noticing of the confirmation hearing but prior to confirmation of the plan, the debtor will provide a copy of the amended plan to each party on the mailing matrix. Unless service is made electronically through the CM/ECF system, the debtor shall mail a copy of the amended plan to each creditor and party in interest. The Clerk will issue and send to the parties a notice setting confirmation objection and hearing dates for the amended plan.
- (d) *Modification of the Plan After Confirmation.* A debtor who seeks to modify a plan after confirmation must do so by filing a motion to modify the plan with a copy of the amended plan and a proposed order.

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- (e) *Service of Amended Plan After Confirmation.* After filing a motion to amend a confirmed plan, the debtor will provide a copy of the amended plan to each party on the mailing matrix. Unless service is made electronically through the CM/ECF system, the debtor shall mail a copy of the amended plan to each creditor and party in interest. The Clerk will issue and send to the parties a passive notice setting the objection date on the post-confirmation amended plan. If an amended plan is filed that alters the treatment of the claims of a limited number of creditors, the debtor may be excused from serving the notice and amended plan on all creditors if [L.B.F. 3015-2\(a\)](#) is filed certifying that service has been made on the affected creditors. If an amended plan is filed to alter funding of the plan or to make technical amendments, but does not affect the payment of any creditor's claim, the debtor may be excused from serving the notice and amended plan on all creditors if [L.B.F. 3015-2\(b\)](#) is filed certifying the limited changes to the plan. If neither [L.B.F. 3015-2\(a\)](#) or [L.B.F. 3015-2\(b\)](#) is filed with the amended plan, the debtor shall provide a copy of the amended plan as directed above. The Clerk will issue and send to the parties a passive notice setting the objection date on the post-confirmation amended plan.
- (f) *Waiver of Objections.* The failure to file a timely objection, upon notice, is deemed a waiver of all objections to the amended plan and any prior plans, and the court may confirm the amended plan without further notice or hearing.
- (g) *Time for Filing Amended Plans.* Within thirty (30) days after an order is entered that determines whether a lien may be avoided, determines the priority or extent of a lien, or resolves an objection to a claim, the debtor must file an amended plan to provide for the allowed amount and priority of the claim, if the allowed amount or priority differs from the claim as stated in the plan.

COMMENTS: *L.B.R. 3015-3 was eliminated effective December 1, 2011 to avoid repetition of the provisions of F.R.B.P. 3002.1.*

Rule 3015-3 *Chapter 13 -Confirmation Hearing.*

- (a) *Pre-Confirmation Certifications.* Debtor must submit to the chapter 13 trustee a Pre-Confirmation Certification in conformity with [L.B.F. 3015-3\(a\)](#) and a Certification Regarding Domestic Support Obligations in conformity with [L.B.F. 3015-3\(b\)](#), if applicable, at least twenty-four (24) hours prior to the time of the hearing.
- (b) *Appearances at Hearing.* Neither the debtor nor debtor's counsel need appear at the confirmation hearing if:
 - (1) No objections to the chapter 13 plan have been timely filed or any timely filed objections have been withdrawn; and

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- (2) The Pre-Confirmation Certifications have been filed in conformity with L.B.R. 3015-3(a).

If neither the debtor nor debtor's counsel appear at the hearing under this subsection and a party in interest appears and is permitted to lodge an untimely objection, the court will reschedule the hearing on confirmation. Otherwise, debtor and debtor's counsel must attend all scheduled confirmation hearings.

- (c) *Payment of Filing Fee.* The entire case filing fee must be paid prior to the confirmation of any chapter 13 plan. Provided, the requirements of this subparagraph may be waived by the court, upon motion for cause.

Rule 3015-4 *Chapter 13 - Adequate Protection Payments.* For cases filed on or after October 17, 2005, the debtor shall make pre-confirmation adequate protection payments as follows:

- (a) *Adequate Protection Payments to Lessors.* Adequate protection payments to a lessor of personal property must be made by the debtor directly to the lessor if the debtor's plan so provides. If the debtor's plan provides for the lease payments to be made by the trustee, the debtor's plan payments must be made timely so that the trustee may begin prompt distribution.
- (b) *Adequate Protection Payments to Secured Creditors.* Pre-confirmation adequate protection payments to a secured creditor must be made by the debtor directly to the secured creditor if the debtor's plan so provides. If the plan does not so provide, the adequate protection payments must be paid to the trustee and not directly to the secured creditor. The adequate protection payments must be made timely so that the trustee may begin prompt distribution.
- (c) *Creditor Identification.* The debtor's plan must separately identify by creditor name, address, account number, and monthly payment amount each creditor entitled to receive adequate protection payments.
- (d) *Adequate Protection Payment Distribution.* The trustee will distribute pre-confirmation adequate protection payments to any creditor identified in the plan as receiving payments from trustee and for which a proof of claim has been filed, less the trustee's statutory compensation and expenses, as soon as practicable after receipt of said payment from the debtor.

Rule 3015-5 *Chapter 13 - Discharge for Cases Filed On or After October 17, 2005.* For all chapter 13 cases filed on or after October 17, 2005, a discharge will not be entered unless the debtor has filed, after the completion of plan payments, Debtor's Certifications Regarding Domestic Support Obligations and Section 522(q) ([L.B.F. 3015-5](#)) and has completed an instructional course concerning personal financial management described

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in [11 U.S.C. §§ 111](#) and [1328\(g\)\(1\)](#), and has filed a copy of Official Form 23 (*Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*).

Rule 3016-2 *Disclosure Statement - General.*

- (a) *Contents.* Unless the court orders otherwise, any disclosure statement or amended disclosure statement must include the following information in addition to all other information required by applicable law:
- (1) an introductory narrative summarizing the plan, which must include:
 - (A) an identification of each class of claims or interests;
 - (B) the composition of each class as to number and type of creditor or interest;
 - (C) the amount of claims and interests (specifying any that are known to be disputed and how they will be treated under the plan);
 - (D) the amount (dollar and/or percentages) to be paid to each class and the timing of payments to be made under the plan; and
 - (E) all sources and amounts of funding in reasonable detail;
 - (2) a summary exhibit setting forth a liquidation analysis as if assets of the debtor were to be liquidated under chapter 7; and
 - (3) a narrative summarizing the scheduled assets and liabilities as of the date of the order for relief:
 - (A) reciting the disposition of assets during the chapter 11 case;
 - (B) describing the process for handling initial and subsequent disbursements under the plan; and
 - (C) identifying persons responsible for making disbursements under the plan.
- (b) *Disclosure Statement Accompanying Reorganization Plan.* Unless a liquidating plan is proposed, each disclosure statement must also include a projected cash flow and budget, including plan payments over the shorter of the life of the plan or three fiscal years following confirmation, showing all anticipated income and expenses.

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Rule 3017-1 *Disclosure Statement - Approval.*

- (a) *Notice and Hearing.* Upon receipt of a disclosure statement, the court will issue an order and notice for hearing on the disclosure statement. The plan proponent filing the disclosure statement must mail the order and notice to all parties listed in [F.R.B.P. 3017\(a\)](#).
- (b) *Amended Disclosure Statements.* With every amended disclosure statement, the plan proponent must file a certification in substantial compliance with [L.B.F. 3017-1](#). The plan proponent must serve copies of the amended disclosure statement on parties in interest whose claims or interests may be affected by the changes and notify them of a new objection date as directed by the court.
- (c) *Transmission of Approved Disclosure Statement and Order.* After entry of an order approving the disclosure statement, the plan proponent must mail the order, the plan or a court-approved summary of the plan, the disclosure statement, and a ballot for accepting or rejecting the plan conforming to Official Form 14 to all creditors and interest holders. The ballot must state that ballots are to be returned to the plan proponent and not to the clerk.

Rule 3018-1 *Ballots - Voting on Plans.*

- (a) *Service of Ballots and Report of Results of Balloting.* Any ballot accepting or rejecting a plan must be served on the plan proponent as specified on the ballot. No less than seven (7) days before the confirmation hearing, the plan proponent must file a report of the balloting with the clerk and serve a copy on the debtor (unless the debtor is the plan proponent) and each committee. The proponent must retain the ballots.
- (b) *Form of Report of Balloting.* The report of balloting must substantially conform to [L.B.F. 3018-1](#).

Rule 3019-1 *Chapter 11 - Amendments to Plan.* With every plan that is amended or modified before confirmation, a plan proponent must file a certification in substantial compliance with [L.B.F. 3019-1](#). The plan proponent must serve copies of the amended plan on parties in interest whose claims or interests may be affected by the changes and notify them of a new objection date as directed by the court.

Rule 3022-1 *Final Report/Decree (Chapter 11).*

- (a) *Motion.* A motion for a final decree must certify that the estate is fully administered and list all pending adversary proceedings related to the case.

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- (b) *Service of Motion.* The motion must be served on all secured creditors and any committee appointed under [11 U.S.C. § 1102](#) or its authorized agent. If no committee of unsecured creditors has been appointed under § 1102, the motion must be served on the creditors included on the list filed under [F.R.B.P. 1007\(d\)](#).

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**PART IV
THE DEBTOR: DUTIES AND BENEFITS**

Rule 4001-1 *Automatic Stay - Relief from.*

- (a) *Order Establishing Response and Hearing Dates.* When a motion for relief from the automatic stay is filed, the clerk will provide to the movant an order setting an answer date and a hearing date. Unless service is made electronically through the ECF system, the movant must serve the order upon the persons specified under [F.R.B.P. 4001](#) and L.B.R. 4001-6. In the alternative, a self-scheduled motion for the relief from the automatic stay will proceed as outlined in L.B.R. 9002-1.
- (b) *Combination of Motions.* A motion for relief from the stay may not be combined with a request for any other relief.
- (c) *Proposed Order.* Each motion for relief from the automatic stay must be accompanied by a proposed order granting the relief requested in the motion.
- (d) *Contents of Motion.* The motion seeking relief must state the following:
 - (1) the location of the property;
 - (2) the priority of the movant's lien relative to any other liens against the property, if known without further inquiry;
 - (3) the contract amount of current monthly installments; and
 - (4) the stage to which debt enforcement or foreclosure actions had progressed when the order for relief was entered.
- (e) *Debtor's Principal Residence.* If relief is sought for a post-petition default in a chapter 11 or 13 case with respect to property that is a debtor's principal residence, the movant must file [L.B.F. 4001-1](#) with the motion.
- (f) *Concurrence in Motion.* The movant must seek the concurrence of the debtor and of the trustee, if one has been appointed in the case. The movant must file a certificate with the motion for relief stating whether concurrence was obtained. If a certificate of concurrence/nonconcurrence is not filed with the motion for relief, the court may deny the motion *sua sponte*.

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Rule 4001-2 *Cash Collateral.*

- (a) *Order Establishing Response and Hearing Date.* When a motion for authorization to use cash collateral is filed, the clerk will provide the movant with an order containing an answer date and a hearing date. Unless service is made electronically through the ECF system, the movant must serve the order upon the persons specified under [F.R.B.P. 4001](#) and L.B.R. 4001-5.
- (b) *Required Disclosure of Certain Provisions of Financing Motion.* Each motion to use cash collateral must comply with L.B.R. 4001-3(c), (d) and (e), and interim and final relief must be granted, denied or conditioned as provided under L.B.R. 4001-3(f) and (g).

Rule 4001-3 *Obtaining Credit.*

- (a) *Credit Agreement.* Each motion for authority to obtain credit must be accompanied by the proposed credit agreement.
- (b) *Proposed Notice and Order.* A motion seeking authority to obtain credit must be accompanied by a proposed notice setting an objection date and a hearing date. Unless filed electronically through the ECF system, the clerk will return to the movant an updated mailing matrix to be used by the movant for the purpose of service.
- (c) *Required Disclosure of Certain Provisions of Financing Motion, Order, or Stipulation - Chapter 9 or Chapter 11 Cases.* All motions seeking authorization to use cash collateral and all motions for authority to obtain credit - collectively, the “Financing Motions” - must:
 - (1) recite whether the proposed form of order, underlying cash collateral stipulation, or loan agreement contains any provision of the type indicated below;
 - (2) identify the location of any such provision in the proposed form of order, cash collateral stipulation, or loan agreement; and
 - (3) state the justification for the inclusion of such provision:
 - (A) Provisions that grant cross-collateralization protection - other than replacement liens or other adequate protection - to the prepetition secured creditor (i.e., clauses that secure prepetition debt by postpetition assets in which the secured creditor would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law).

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- (B) Provisions or findings of fact that bind the estate or parties in interest with respect to validity, perfection, priority, or amount of the secured creditor's prepetition lien or debt or the waiver of claims against the secured creditor without first giving parties in interest at least seventy-five (75) days from the entry of the order for relief and the creditors' committee, if formed, at least sixty (60) days from the date of its formation to investigate such matters.
 - (C) Provisions that seek to waive any rights the estate may have under [11 U.S.C. § 506\(c\)](#).
 - (D) Provisions that grant to the prepetition secured creditor liens on the debtor's claims and causes of action arising under [11 U.S.C. §§ 544, 545, 547, 548, and 549](#).
 - (E) Provisions that deem prepetition secured debt to be postpetition debt or that use postpetition loans from a prepetition secured creditor to pay part or all of that secured creditor's prepetition debt, other than as provided under [11 U.S.C. § 552\(b\)](#).
 - (F) Provisions that provide treatment for the professionals retained by a committee appointed by the United States trustee different from that provided for the professionals retained by the debtor with respect to a professional fee carveout, and provisions that limit the committee counsel's use of the carveout.
 - (G) Provisions that prime any secured lien without the consent of the lienholder.
 - (H) Provisions that release the secured creditor from lender liability.
 - (I) Provisions that grant the lender expedited relief from the automatic stay under [11 U.S.C. § 362](#) or relief from the automatic stay without further order of court.
- (d) *Summary of Essential Terms.* Any Financing Motion must provide a summary of the essential terms of the proposed use of cash collateral or financing, including:
- (1) the amount to be borrowed or advanced on both an interim and final basis;
 - (2) the terms of repayment;
 - (3) the interest rate;

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- (4) the description of any collateral;
 - (5) events of default; and
 - (6) limitations on the use of funds.
- (e) *Budget.* Any Financing Motion must include a budget covering the time period during which the proposed financing will remain in effect. The budget must state in as much detail as is reasonably practical the amount of the projected receipts and disbursements during the period covered by the budget.
- (f) *Interim Relief.* If a Financing Motion is filed with the court on or shortly after the date of the order for relief, the court may grant interim relief pending review by parties in interest of the proposed debtor in possession financing arrangements. Interim relief will be granted only to avoid immediate and irreparable harm to the estate pending a final hearing. In the absence of extraordinary circumstances, the court will not approve interim financing orders that include any of the provisions previously identified under L.B.R. 4001-3(c)(3).
- (g) *Final Approval of Financing Motion.* A final order may be entered only after notice and hearing under [F.R.B.P. 4001](#). If formation of a creditors' committee is anticipated, a final hearing may not be held until at least fourteen (14) days following the organizational meeting of the creditors' committee contemplated by [11 U.S.C. § 1102](#) unless the court, upon motion, orders otherwise.

COMMENTS: L.B.R. 4001-3 was amended effective December 1, 2009 to limit the detailed disclosures concerning motions seeking authority to use cash collateral or obtain credit to cases filed under Chapters 9 or 11.

Rule 4001-4 *Prohibiting or Conditioning the Use, Sale, or Lease of Property.* When a motion for an order prohibiting or conditioning the use, sale, or lease of property is filed, the clerk will provide to movant an order containing an answer date and a hearing date. Unless service is made electronically through the ECF system, the movant must serve the order upon the persons specified under [F.R.B.P. 4001](#) and L.B.R. 4001-6.

Rule 4001-5 *Motions to Extend the Automatic Stay Under Section 362(c)(3) and Motions to Impose Automatic Stay Under Section 362(c)(4).*

- (a) *Contents.* If the stay is to be extended or imposed with regard to all creditors, then the motion must so indicate. If the motion seeks only to extend the stay or to impose the stay as to particular creditors, then the motion must identify those particular creditors. The motion also must state with particularity why the later filing has been made in good faith.

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- (b) *Service.* A motion that seeks to extend or impose the stay as to all creditors must be served upon all creditors. A motion that seeks to extend or impose the stay only as to particular creditors must be served upon those particular creditors.
- (c) The movant may file a verified affidavit setting forth the substantial changes in the financial or personal affairs of the debtor since the dismissal of the next most previous bankruptcy case. In the absence of timely filed objections, the court may enter an order extending the automatic stay without a hearing where a sufficient affidavit has been filed.

Rule 4001-6 *Service of Motions under [F.R.B.P. 4001](#).* In addition to the parties identified in [F.R.B.P. 4001](#), the following motions must also be served upon creditors listed on the schedules as holding claims secured by the asset(s) identified in the motion:

- (a) A motion for relief from the stay;
- (b) A motion seeking an order prohibiting or conditioning the use, sale, or lease of property;
- (c) A motion to use cash collateral;
- (d) A motion for authority to obtain credit;
- (e) Any agreement regarding any of the preceding motions;
- (f) A motion to extend, continue or impose the automatic stay; or
- (g) A motion to confirm the termination or absence of the automatic stay.

Rule 4003-1 *Exemptions.*

- (a) *Notice of Response Date to Objection.* When an objection is filed to a debtor's exemptions, the clerk will give twenty-one (21) days notice by mail of the time fixed for filing a response to the objection.
- (b) *Hearing Date for Objection to Exemptions.* Except as provided in subdivision (c), the clerk will set a hearing date on the objection if a response is filed by the debtor.
- (c) *Request for Hearing Required.* If the chapter 13 trustee files an objection to exemptions, the clerk will not set a hearing date until requested by the debtor or the trustee.

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Rule 4004-1 *Motion to Defer Entry of Discharge Order.* A motion to defer entry of the discharge order for the purposes of obtaining additional time to file Official Form 23 (*Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*) must indicate why debtor is unable to obtain and file the certification within the required time period.

Rule 4006-1 *Closing Chapter 7 or 13 Cases Without Discharge.* If Official Form 23 (*Debtor's Certification of Completion of Instructional Course Concerning Personal Financial Management*) is not filed in accordance with [F.R.B.P. 1007\(b\)\(7\)](#) and [\(c\)](#) and the time limits contained therein, the clerk may close the case without the issuance of an order of discharge and notify creditors thereof.

Rule 4008-1 *Reaffirmation.*

- (a) *General Procedure.* A reaffirmation agreement must conform substantially with [L.B.F. 4008-1\(a\)](#). A reaffirmation agreement must be accompanied by Official Form 27 - Reaffirmation Agreement Cover Sheet. If the presumption arises that the reaffirmation agreement will impose an undue hardship on the debtor, and if the presumption is not rebutted to the satisfaction of the court by a statement on the reaffirmation agreement that identifies additional sources of funds to make the agreed payments, the court will set the matter for hearing.
- (b) *Hearings.* Hearings will be held on all reaffirmation agreements filed by pro se debtors and debtors whose counsel has not signed the certification page of the agreement. Hearing will be held on any agreement which, in the judgment of the court, may impose an undue hardship on the debtor.

COMMENTS: *L.B.R. Rule 4008-1 was amended effective December 1, 2009 to provide for the filing of a reaffirmation cover sheet in accordance with [F.R.B.P. 4008](#) and to delete the former requirement for submission of a proposed order complying with L.B.F. 4008-1(b), which form was eliminated as part of the amendments.*

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**PART V
COURTS AND CLERKS**

Rule 5001-1 *Clerk's Office.* Except as otherwise ordered by the Court, or when closed by federal or official holiday, the clerk's offices in Wilkes-Barre and Harrisburg shall be open to the public from 9:00 a.m. to 4:00 p.m., Monday through Friday.

Rule 5004-1 *Disqualification.*

- (a) *Motion.* A request for disqualification of a judge must be made by written motion. If a hearing is set, the clerk will provide to the movant an order setting the hearing date. The movant must serve the order upon:
- (1) the debtor; and
 - (2) if disqualification from the entire case is not sought, all parties that are engaged in litigation before the court with regard to an adversary proceeding or contested matter from which the basis for disqualification arose unless service is made on such parties electronically through the ECF system.
- (b) *Oral Motion.* The motion may be made orally in open court if grounds for disqualification are first presented during proceedings before the judge.

Rule 5005-1 *Filing Papers - Requirements - Place of Filing.* Unless otherwise provided, a paper document that is permitted or required to be filed by the Local Bankruptcy Rules must be filed in the clerk's office. A paper document must not be filed with the judge or the judge's staff unless the bankruptcy clerk's office is closed. In the event a paper document is filed with the judge, the filing date must be noted thereon, and it must be transmitted to the clerk. A bankruptcy paper may be filed with the district court clerk's office only in an emergency.

COMMENTS: *Subpart (b) of L.B.R. 5005-1 was reworded and renumbered as L.B.R. 9018-1 effective December 1, 2011.*

Rule 5005-2 *Filing Papers - Number of Copies; Time-Stamped Copies.*

- (a) *Petition and Supporting Documents.* In all chapters, only the original petition and supporting documents must be filed.
- (b) *No Copies of Electronic Filings Required.* Except when paper copies are required by a local rule or by court order, when a petition, pleading, or any other paper is filed electronically, no copies are required.

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- (c) *Stamped “Filed” Copies.* To receive a time-stamped copy of a document, the filing party must provide the clerk with a copy of the document and a self-addressed, stamped envelope.

Rule 5005-4 *Electronic Filing.* Pursuant to [Miscellaneous Order 5:05-mp-50007](#), documents must be filed, signed, and verified by electronic means in accordance with the [Administrative Procedures](#) available on the court’s website (www.pamb.uscourts.gov). A document filed under this rule constitutes a written document for the purpose of these Local Bankruptcy Rules, the Federal Rules of Bankruptcy Procedure and [11 U.S.C. § 107](#).

Rule 5005-5 *Filing Papers After Hours.*

- (a) *After Hours Filings.* Except as otherwise authorized by the Court, non-ECF filers may file petitions and other papers by facsimile only pursuant to the provisions of this Local Rule.
- (b) *Time and Manner of Filing.* Papers may be filed by facsimile to the Harrisburg or Wilkes-Barre facsimile numbers indicated on the court’s website (www.pamb.uscourts.gov) when the Clerk’s Office is not open. After 4:00 p.m. EST, and before Midnight (12:00 a.m.) EST, transmit by facsimile only the first page and the signature page of the document.
- (c) *Filing of Original Document.* The entire original paper document, together with any required filing fee, must be filed in person and time-stamped by the clerk no later than Noon (12:00 p.m.) EST on the next business day after the facsimile filing when the clerk’s office is open.
- (d) *Clerk’s Procedures Concerning Facsimile Documents.* If the original document is not timely filed after the facsimile transmittal, the clerk will note that fact and the facsimile will have no force or effect. The clerk’s office will not acknowledge the filing of a document or assign a case number or adversary number to a document unless the original is timely filed pursuant to the provisions of this Rule. Upon timely receipt of the original document and any required fee, the clerk will stamp the following notation on the document: “This document is deemed filed on _____ (date) pursuant to L.B.R. 5005-5 - Filing Papers After Hours”. Documents filed in accordance with this Rule will be deemed filed on the date and at the time printed on the document by the facsimile machine in the clerk’s office which received the facsimile.

Rule 5010-1 *Reopening Cases.* A motion to reopen a case, which may be granted summarily, must be accompanied by the appropriate filing fee unless waived by the court. The filing fee may be waived if the case is opened to correct an administrative error, to assert the

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protection of the discharge injunction, or for cause shown. The motion must be served on:

- (a) the debtor; and
- (b) any other party as directed by the court.

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**PART VI
COLLECTION AND LIQUIDATION OF THE ESTATE**

Rule 6002-1 *Accounting by Prior Custodian of Property of the Estate.* A prior custodian must submit a report and accounting to the United States trustee that contains sufficient detail to inform the trustee or any other party in interest of the custodian's activities while in possession of what is now the property of the estate. No particular format is required under this rule.

Rule 6004-1 *Use, Sale, or Lease of Property.*

(a) Sale on Notice. A sale of assets, other than in the ordinary course of business, under and subject to liens, may be conducted, on notice, pursuant to 11 U.S.C. § 363(b). The notice of sale is subject to the notice requirements of this Rule.

~~(a)~~ **(b) Sale Upon Motion.** A motion for the use, sale, or lease of property must be filed in conformity with [F.R.B.P. 9014](#). **Any sale on motion is subject to the notice requirements of this Rule.** Any motion for a free and clear sale is subject to the notice requirements of this Rule and to the additional requirements of L.B.R. 6004-5.

~~(b)~~ **(c) Sale Notices.** **When the proposed use, sale, or lease of property is upon notice or motion (unless subject to the exceptions in F.R.B.P. 6004(d) or L.B.R. 9075-1), the required notice must include:** A motion for the proposed use, sale, or lease of property under [11 U.S.C. § 363\(b\)](#), unless subject to [F.R.B.P. 6004\(d\)](#) or L.B.R. 9075-1, must be accompanied by a notice that includes:

- (1) the caption of the case;
- (2) the name and address of the seller;
- (3) the place, date, and time of the sale;
- (4) the hearing date;
- (5) a general description of the property to be sold;
- (6) a statement describing where a complete description or inventory of the property may be obtained or examined;
- (7) the place, date, and time the property may be examined prior to the sale or an explanation of how a prospective buyer may be afforded an opportunity to examine the property prior to the sale;

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- (8) the terms and conditions of sale, including the terms of any pending offers, or minimum bid requirements, or breakup fee provisions;
 - (9) whether the sale is subject to higher and better offers;
 - (10) in any private sale, the identity of the purchaser and any affiliation or relationship with the debtor or an insider of the debtor;
 - (11) whether the sale will be advertised and, if so, how and when;
 - (12) the last date by which objections to the sale must be filed with the court - which must be not less than twenty-one (21) days after the notice is mailed, unless the court shortens the time under [F.R.B.P. 9006](#); and
 - (13) a statement that inquiries regarding the sale should be directed to the seller or their counsel or agent and not to the clerk.
- (c) **(d) Service.** Unless the court directs otherwise, and unless service is made electronically through the ECF system, the notice of sale must be served on the following:
- (1) the debtor;
 - (2) the trustee, if any;
 - (3) indenture trustees, if any;
 - (4) all creditors;
 - (5) all committees appointed under the Bankruptcy Code, if any;
 - (6) the United States trustee;
 - (7) the United States as required by [F.R.B.P. 2002\(j\)](#); and
 - (8) all holders of liens or encumbrances against the property.
- (d) **(e) Address for Service.** Service of a notice of sale must be made at the address set forth in any request for notices filed under [F.R.B.P. 2002\(g\)\(1\)](#). If a request has not been filed, the notice must be served under [F.R.B.P. 2002\(g\)\(2\)](#) unless a different address is listed in a later-filed proof of claim. In the latter instance, the address stated in the proof of claim must be used.

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Rule 6004-2 *Objections to Section 363(b) Sale.* Any party who objects to a proposed sale must file an objection within the time period fixed by the notice of sale. The objecting party must serve a copy of the objection on the seller and the seller's counsel of record.

Rule 6004-3 *Public Sale Bidding Procedures in a Chapter 11 Case.* In the case of a public sale conducted **in chapter 11 case** by other than a professional auctioneer, the seller must file a sale procedure motion which will detail the bidding procedures, including the following:

- (1) any minimum bid requirements;
- (2) any minimum bid increment requirements;
- (3) whether any bidder who has a contractual right to a topping or breakup fee will receive a credit equal to the breakup or topping fee when bidding on the property; and
- (4) a provision that all bidding must take place outside the presence of the court.

Rule 6004-4 *Special Sale Provisions in a Chapter 11 Case.*

(a) *Breakup/Topping Fees and Expense Reimbursement.* When the seller **in a chapter 11 case** is seeking court approval of a breakup or topping fee or other bidding protections (such as the estate's proposed payment of out-of-pocket expenses incurred by a bidder or contract purchaser), the sale motion must include the following:

- (1) the name of the party entitled to the breakup or topping fee;
- (2) the dollar amount or the method to calculate the breakup or topping fee; and
- (3) any relationship between the seller and the party eligible for the breakup or topping fee.

(b) *Sale to Insider.* If the seller seeks court approval of a sale to an insider of the debtor, the motion must include the following information:

- (1) the name of the insider;
- (2) the relationship of the insider to the debtor; and
- (3) the measures that have and will be taken to ensure the fairness of the sale process.

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- (c) *Agreements with Management.* Any motion seeking approval of the private sale of an ongoing business must disclose the following:
- (1) whether the proposed purchaser has entered into any agreements with management or key employees concerning compensation or future employment;
 - (2) the material terms of any agreements between the proposed purchaser and management or key employees; and
 - (3) what measures have or will be taken to ensure the fairness of the sale in light of such agreements with management or key employees.
- (d) *Tax Exemption.* If the debtor is seeking to have a sale declared exempt from taxes under [11 U.S.C. § 1146\(a\)](#), the sale motion must disclose the type of tax (e.g., recording tax, stamp tax, use tax, capital gains tax) for which the exemption is sought. The debtor must also identify the state or states in which the affected property is located. The sale motion must state whether or not the chapter 11 plan has been confirmed.
- (e) *Relief from [F.R.B.P. 6004\(h\)](#).* If the seller seeks relief from the stay imposed by [F.R.B.P. 6004\(h\)](#), the sale motion must state the basis for the request.

COMMENTS: *L.B.R. 6004-4(d) was amended effective December 1, 2009 to comply with the decision of [Florida Dept. of Revenue v. Piccadilly Cafeterias, Inc.](#), 128 S.Ct. 2326 (U.S. 2008).*

Rule 6004-5 *Sales of Property Free and Clear of Liens - Section 363(f).*

- (a) *Notice.* All free and clear sales are subject to the applicable notice requirements of L.B.R. 6004-1(b), (c) and (d).
- (b) *Motion.* A sale of property free and clear of liens ~~may~~ **must** be commenced by motion except as provided in subdivision (c) below. A motion for a free and clear sale must name as respondents all parties claiming an interest in the property.
- (c) *Complaint.* A sale of property free and clear of liens must be brought as an adversary proceeding and commenced by a complaint under Part VII of the F.R.B.P. and Part VII of the L.B.R. when the seller also seeks:
- (1) to determine the validity, priority, or extent of a lien or other interest in property, other than the avoidance of a lien or other transfer of property exempt under [11 U.S.C. § 522\(f\)](#); or

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- (2) to obtain approval under [11 U.S.C. § 363\(h\)](#) for the sale of both the interest of the estate and of a co-owner in the property unless the concurrence of the co-owner has been obtained.

- (d) *Order.* When a motion is filed for a sale free and clear of liens, the clerk will issue an order fixing a response date and a hearing date. A hearing will be held only if a responsive pleading is timely filed, unless a hearing is requested by the moving party or is ordered by the court. Otherwise, an order granting the relief requested will be entered without a hearing.

- (e) *Service of Motion.* The seller must serve a copy of the motion and the order referred to in subparagraph (d) upon all lienholders and other parties claiming an interest in the property and their counsel of record.

- (f) *Service of Notice.* Unless the court directs otherwise, the seller must serve the notice on the respondent and any parties referenced in L.B.R. 6004-1(c), at least twenty-one (21) days before the hearing on the sale.

Rule 6005-1 *Appraisers, Real Estate Agents, and Auctioneers.*

- (a) *Form of application.* All applications must conform to L.B.R. 2014-1.

- (b) *Payment of Compensation.* An appraiser, real estate agent, or auctioneer may receive compensation and reimbursement of expenses from the proceeds of any sale approved by the court without filing a separate application for the approval of compensation and expenses under the following conditions:
 - (1) the terms for the payment of compensation and reimbursement of expenses were disclosed in the application for employment;
 - (2) the order approving retention of the appraiser, real estate agent, or auctioneer approved the compensation arrangement proposed in the application for employment; and
 - (3) the order approving the sale authorized the payment of compensation and expenses to the appraiser, real estate agent, or auctioneer.

Rule 6006-1 *Executory Contracts.*

- (a) *Motion.* A motion for the assumption, rejection, or assignment of an executory contract or unexpired lease must be filed in conformity with [F.R.B.P. 6006](#).

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- (b) *Notice.* A notice for the assumption, rejection, or assignment of an executory contract or unexpired lease must contain the following:
 - (1) a date by which objections may be filed;
 - (2) a statement that in the event there are no objections filed an order may be entered approving the proposed assumption, rejection, or assignment without further notice; and
 - (3) the hearing date and time when any objection to the motion is to be heard.
- (c) *Response.* No response is required to an objection.

Rule 6007-1 *Abandonment or Disposition of Property.*

- (a) *Proposed Abandonment.* A trustee or debtor in possession may abandon property by filing a notice and proposed order with the clerk. The notice must contain sufficient information to allow parties in interest to make an informed decision regarding whether abandonment of a particular asset is in the best interest of the estate. The notice must provide that parties have fourteen (14) days to file objections to the proposed abandonment. A debtor in possession or chapter 11 trustee must serve notice of the proposed abandonment on parties in interest. The clerk will notice creditors and parties in interest of the proposed abandonment in chapter 7, 12, and 13 cases.
- (b) *Objection to Abandonment.* An objection to a proposed abandonment of property of the estate must state specific grounds for the objection. No response is required to an objection.
- (c) *Motion to Compel Abandonment.* A motion to compel abandonment must be served upon the parties against whom the relief is sought along with an order prepared by the clerk that fixes an answer date.

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**PART VII
ADVERSARY PROCEEDINGS**

Rule 7002-1 *District Court Rules.* Local Rules of the United States District Court for the Middle District of Pennsylvania LR 7.1 through 7.8 (www.pamd.uscourts.gov) apply in adversary proceedings unless modified by these rules.

Rule 7003-1 *Adversary Proceeding Cover Sheet.* Any paper complaint filed under Part VII of the F.R.B.P. must be accompanied by an adversary proceeding cover sheet provided by the clerk.

Rule 7005-2 *Filing of Discovery Materials.*

- (a) *Discovery Motions.* A party seeking a protective order, an order to compel discovery, or other relief under [F.R.B.P. 7026](#) must attach to the motion only that portion of the deposition, interrogatory, request for document, or request for admissions that is the subject of the objection. An attachment to the motion must conform with the requirements of L.B.R. 5005-4 and any administrative order issued regarding electronic case filing.
- (b) *Documentation Not in Record.* When discovery documentation not previously in the record is needed for appeal purposes, upon motion and order of the court, or by stipulation of counsel, the necessary discovery papers must be filed with the clerk. See Local Rule 5.4(d) of the Local Rules of the United States District Court for the Middle District of Pennsylvania (www.pamd.uscourts.gov).
- (c) *Original Response and Certificate of Service.* A party who serves a discovery request must retain the original response as its custodian. Certificates of service of discovery materials must not be filed separately with the clerk. The original of any deposition upon oral examination must be retained by the party taking such deposition. See Local Rule 5.4(b) of the Local Rules of the United States District Court for the Middle District of Pennsylvania (www.pamd.uscourts.gov).

Rule 7007-1 *Motions in Adversary Proceedings.*

- (a) *Written Motion.* A motion must be in writing unless made during a hearing or trial.
- (b) *Grounds and Relief to be Stated.* A motion filed in an adversary proceeding must contain a descriptive title of the motion in addition to the complete adversary caption. The caption must conform to [L.B.F. 9004-3](#).

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- (c) *Response.* The response to any motion must be filed and served within fourteen (14) days after service of the motion. If no response is timely filed, the motion may be deemed uncontested, and the court may dispose of the motion.
- (d) *Continuances.* A request for continuance of a trial date must be made in conformity with L.B.R. 9013-4.
- (e) *Hearing.* Oral argument or hearing on a contested motion will be held only if requested by the court.
- (f) *Proposed Order.* A proposed order of court as required under L.B.R. 9013-1(b) must be filed as an attachment to any motion and other pleading requesting relief in accordance with the procedures set forth in the [Miscellaneous Order 5:05-mp-50007](#) and the [Administrative Procedures](#) available on the court's website (www.pamb.uscourts.gov).

Rule 7016-1 *Pre-Trial Procedure.*

- (a) *Applicability of [Fed. R. Civ. P. 16\(b\)](#).* Unless the court directs otherwise, an adversary proceeding is exempt from the provisions of [Fed. R. Civ. P. 16\(b\)](#), as incorporated in [F.R.B.P. 7016](#).
- (b) *Scheduling Order.* Notwithstanding subdivision (a), the court generally will issue a scheduling order.
- (c) *Pre-trial Motions.* The court may dispose of pre-trial motions in summary fashion at any time during their pendency.

Rule 7021-1 *Misjoinder and Non-Joinder of Parties.* When an adversary is severed into two or more proceedings, a separate filing fee is payable to the clerk for each severed proceeding.

Rule 7024-2 *Unconstitutionality, Claim of.* Local Rule 4.5 of the United States District Court for the Middle District of Pennsylvania (www.pamd.uscourts.gov) applies in any contested or adversary proceeding in which the constitutionality of any act of Congress affecting the public interest to which the United States or an officer, agency, or employee thereof is not a party or in which the constitutionality of a state statute affecting the public interest in any action to which the state or an officer, agency, or employee thereof is not a party.

Rule 7041-1 *Notice of Dismissal of Adversary Proceeding.* Before any adversary proceeding is involuntarily dismissed pursuant to [F.R.B.P. 7041](#), a thirty (30) day notice will be

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given by the clerk to each party whose claim is to be dismissed and to the counsel of record for that party, if any.

Rule 7055-1 *Default - Failure to Prosecute.* Subject to L.B.R. 7041-1, an adversary complaint may be dismissed if neither a response nor a motion for default judgment has been filed within forty-five (45) days after the response date to the complaint. If a motion for default judgment is filed, the court may enter judgment by default against the defendant seven (7) days after the motion has been served on the defendant.

Rule 7055-2 *Order of Default.* The order of default may award damages for the amount to which the plaintiff is entitled if it is a sum certain or can be made certain by computation. If damages cannot be computed from the complaint, they must be assessed at a hearing at which the issues are limited to the amount of the damages.

Rule 7056-1 *Summary Judgment - Applicability of Local Rule 56.1.* Local Rule 56.1 for the United States District Court for the Middle District of Pennsylvania(www.pamd.uscourts.gov) applies in adversary proceedings.

Rule 7067-1 *Registry Funds.*

(a) *Motion to Deposit Funds.* A party who wishes to deposit funds while litigation is pending may move the court to have such funds invested in interest-bearing accounts or instruments. The movant must attach a proposed order directing investment, which includes the following:

- (1) the amount to be invested;
- (2) mode of deposit (i.e., check, wire transfer);
- (3) the type of account or instrument in which the funds are to be invested; and
- (4) the terms of investment, to include reinvestment instructions on short term instruments, any time limits on investment, and other material information required by a particular case.

(b) *Motion to Withdraw Funds.* In order to withdraw deposited funds, a motion for disbursement of invested registry funds and a proposed order must be filed with the court. The proposed order for disbursement of invested registry funds must include:

- (1) the name and address of the payee(s) in addition to the total amount of the principal and interest (if the interest is not known, the order may read “plus interest”) that will be disbursed to each payee.

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- (2) the clerk's charge pursuant to *The Guide, Vol. I, Chapter VII, Section 2.7.4* (variable rate based on amount deposited and the years held) from interest earnings for handling of the Registry Fund.
- (3) the federal tax identification number or the last four digits of the social security number of each payee receiving earned interest.

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**PART VIII
APPEALS TO DISTRICT COURT OR
BANKRUPTCY APPELLATE PANEL**

Rule 8006-1 *Designation of Record.* Each designation of items to be included in the record of appeal must clearly indicate each document to be included in the record by listing its title, filing date, and document number, if any, as it appears on the case or adversary docket.

Rule 8007-1 *Completion of Record.* The clerk is not responsible for the failure to transmit items not designated in accordance with L.B.R. 8006-1.

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**PART IX
GENERAL PROVISIONS**

Rule 9001-1 *Definitions.* Unless inconsistent within the context of a particular rule, the following terms are defined for the purposes of the Local Bankruptcy Rules as follows:

- (a) “*Amended plan*” means a plan modified under the provisions of [11 U.S.C. §§ 942, 1127, 1223, 1229, 1323, and 1329](#). The terms “modified” and “amended” are used interchangeably.
- (b) “*Chapter*” means one of the chapters of Title 11 of the Bankruptcy Code.
- (c) “*Clerk*” means the office of the Clerk of the United States Bankruptcy Court for the Middle District of Pennsylvania.
- (d) “*Contract amount*” means the amount of principal and interest payable each month under the terms of a note secured by a mortgage without the inclusion of late fees or other default fees or charges.
- (e) “*Counsel of record*” means any attorney who has entered an appearance on the docket of a bankruptcy case or who has filed a paper on behalf of a party. An attorney remains counsel of record until an order authorizing withdrawal has been entered or another attorney has entered an appearance on behalf of the party.
- (f) “*Electronic filer*” means a filing user registered with the clerk to file, serve, and receive documents through the electronic filing system established by the United States Bankruptcy Court for the Middle District of Pennsylvania.
- (g) “*F.R.B.P.*” means [The Federal Rules of Bankruptcy Procedure](#).
- (h) “*Paper filer*” means an individual or entity that is not an electronic filer and files, serves, and receives paper documents in compliance with all rules and court orders.
- (i) “*Party in interest*” means a person or entity who may be affected by a bankruptcy proceeding. In these Rules, a party in interest also includes a creditor.
- (j) “*Passive notice*” is a notice stating that if no response is filed, the court may enter the requested relief without further notice or hearing.
- (k) “*Retainer agreement*” means an agreement between a client and an attorney in which the client deposits funds with the attorney for services to be performed whether entered before the filing of a bankruptcy petition or during the pendency of the case.

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- (l) “*Schedules and statements*” include all documents required to be filed by a debtor under [11 U.S.C. § 521](#).

Rule 9002-1 *Self-Scheduling - Contested Matters.*

- (a) *Filing a Self-Scheduling Motion.* When a motion is filed using self-scheduling the electronic filer shall use the Courtroom Hearing Scheduler (“CHS”).
- (b) *Response and Hearing Dates.* CHS will set a response date for the motion. CHS will also provide a list of available hearing dates at court locations. The electronic filer will select a hearing date from the list.
- (c) *Notice of Response and Hearing Dates.* A notice containing the response date as well as a hearing location and date will be noticed by the clerk’s office through the Bankruptcy Noticing Center.
- (d) *Service of the Self-Scheduled Motion.* The electronic filer shall serve the motion in the manner provided in L.B.R. 9013-1(c) and file a certificate of service pursuant to L.B.R. 9013-3. The certificate of service shall be filed within seven (7) days of the filing of the motion.
- (e) A movant seeking relief from the automatic stay who chooses to self-schedule the hearing will be deemed to have waived the 30-day hearing requirement contained in [11 U.S.C. § 362\(e\)](#) and the automatic stay will remain in effect pending further order of the court.

Rule 9003-1 *Ex Parte Relief.* The following requests may be considered ex parte by the court:

- (a) for conversion or dismissal under [11 U.S.C. §§ 706\(a\)](#), [1208\(b\)](#), or [1307\(b\)](#);
- (b) for entry of a wage order under [11 U.S.C. §§ 1225\(c\)](#) and [1325\(c\)](#);
- (c) for approval to pay filing fees in installments;
- (d) for waiver of filing fees for documents including the bankruptcy petition;
- (e) to limit notice;
- (f) for admission *pro hac vice*;
- (g) for emergency relief;
- (h) for an extension of time to file documents required under [11 U.S.C. § 521](#);

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- (i) for protection from or application of disclosure of information under [11 U.S.C. § 107](#); and
- (j) for relief after dismissal of an involuntary case.

Rule 9004-2 *Caption of Pleadings.* Unless additional information is required under [11 U.S.C. § 342\(c\)](#), any pleading filed with the clerk in a contested matter must contain a caption substantially in compliance with [L.B.F. 9004-2](#). Unless additional information is required under [11 U.S.C. § 342\(c\)](#), any pleading filed with the clerk in an adversary proceeding must contain a caption substantially in compliance with [L.B.F. 9004-3](#).

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 changes 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,

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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 9010-4 *Facsimile and E-mail Addresses.* In addition to the requirements of [F.R.B.P. 9011\(a\)](#), an attorney must provide the attorney's facsimile number and e-mail address, if any.

Rule 9011-1 *Attorneys' Duties.* Subject to L.B.R. 9010-1(b) an attorney who files a petition in bankruptcy on behalf of a debtor, or who later enters an appearance on behalf of a debtor - other than as special counsel - is counsel of record in all matters arising during the administration of the case.

Rule 9013-1 *Motion Practice.*

- (a) *Title of Motion and Answer.* The title of each motion must identify the party filing the motion and the nature of the relief sought. Any answer filed must identify the party filing the answer and the motion to which the party is responding. The answer must include in the caption the docket number reference of the document to which the party is responding.
- (b) *Orders to Accompany Motions.* Each motion must be accompanied by a proposed form of order which, if entered by the court, would grant the relief sought by the motion in accordance with the procedures set forth in the [Miscellaneous Order 5:05-mp-50007](#) and the [Administrative Procedures](#) available on the court's website (www.pamb.uscourts.gov).
- (c) *Service of Motion - Generally.* Unless service is made electronically through the ECF system, the moving party must serve a copy of its motion and attachments on the following:
 - (1) the respondent;
 - (2) the debtor;
 - (3) any committee appointed pursuant to [11 U.S.C. § 1102](#); and
 - (4) such other entities as the court may direct.

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- (d) *Service of Motion to Dismiss or Convert.* Unless service is made electronically through the ECF system, the moving party must serve a copy of a motion to dismiss or convert a case to another chapter on the debtor and on debtor's counsel, in addition to those parties listed in paragraph (c).
- (e) *Service of Motion Against Counsel.* Unless service is made electronically through the ECF system, the moving party must serve a copy of a motion seeking sanctions or other relief against a party's counsel on the party and on counsel.

Rule 9013-3 *Certification of Service.* In accordance with the procedures set forth in the [Miscellaneous Order 5:05-mp-50007](#) and the [Administrative Procedures](#) available on the court's website (www.pamb.uscourts.gov), each document filed with the court 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.

Rule 9013-4 *Continuances.* A request for a continuance must be made in writing and contain a certification that counsel making the request has sought the concurrence of all interested parties and that concurrence has been either granted or denied. A request may be denied if concurrence has not been obtained. If a request is the first request for a continuance of the matter, the request should be submitted using [L.B.F. 9013-4](#). All further requests for a continuance must be made by motion. Requests received by the court within twenty-four (24) hours of the hearing will not be considered except in emergency situations, and the request will be granted only in the court's discretion. A party who obtains a continuance must immediately notify other parties of the continuance by email, telephone, facsimile transmission, or first class mail, whichever method is necessary to ensure that notice is received no later than twenty-four (24) hours prior to the time set for the hearing.

COMMENTS: L.B.R. 9013-4 was amended effective December 1, 2009 to provide that a continuance request may be denied if concurrence has not been obtained from all interested parties.

Rule 9014-1 *Default and Summary Judgment.* [F.R.B.P. 7055](#) and [7056](#) as well as L.B.R. 7055-1 and 7002-1 do not apply in contested matters except as otherwise provided in the Local

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Rules. If a response is required but none is filed, the court may, without hearing, grant the relief requested in the motion.

Rule 9015-1 *Jury Trials.* The parties may consent to have a jury trial conducted by a bankruptcy judge under [28 U.S.C. § 157\(e\)](#) by jointly or separately filing a statement of consent no later than thirty (30) days after time of demand or designation, whichever last occurs, if right to a jury trial applies; a timely demand has been filed under [Fed. R. Civ. P. 38\(b\)](#); and the bankruptcy judge has been specially designated to conduct the jury trial.

Rule 9016-1 *Subpoena.* A subpoena may be issued by an attorney as an officer of the court under [Fed. R. Civ. P. 45\(a\)\(3\)](#). The clerk must issue a subpoena signed, but otherwise blank, when requested by a pro se party.

Rule 9018-1 *Documents Under Seal.* Any party who seeks to file documents under seal must file a motion to that effect. The documents proposed to be filed under seal must be placed in a prominently marked envelope with a cover sheet attached containing the case or adversary caption, related docket number of the motion to file under seal, title of the document to be filed under seal, and the legend “DOCUMENTS TO BE KEPT UNDER SEAL” in bold print. The envelope must be delivered directly to the respective Judge’s chambers. The court shall keep the documents segregated and under seal until the motion is decided. If the court grants the motion to file under seal, the clerk shall electronically docket the cover sheet and shall keep the documents segregated and under seal until the case or adversary proceeding is closed, at which time the sealed documents shall be returned to the party that filed them. If the court denies the motion to file under seal, the clerk shall return the segregated, proposed sealed documents to counsel for the moving party without any disclosure to third parties and such documents shall not become part of the record in the case unless they are otherwise separately filed of record in accordance with the applicable rules.

Rule 9019-1 *Settlements and Agreed Orders.*

- (a) *Settlement of Adversary Matters and Contested Matters.* In an adversary proceeding or contested matter, whenever the parties have reached a settlement, they must file a stipulation resolving the matter before the hearing date, submit a Request to Remove form ([L.B.F. 9019-1](#)), or announce the settlement at the hearing set on the matter. If a Request to Remove form is filed, within the time specified in the form, the moving party or plaintiff must file a stipulation or stipulated order and any requisite motion to compromise or settle. Failure to file a stipulation or stipulated order may result in the dismissal of the matter or proceeding. A motion to extend the time to comply with this rule or to re-list the matter for hearing may be filed within the period specified for filing a stipulation or stipulated order in the Request to Remove form, but the motion will be granted only upon cause shown.

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- (b) *Hearing.* When a matter has been settled and a stipulation has been filed or is expected to be filed within a period not to exceed sixty (60) days, the hearing before the court may be stricken by filing a Request to Remove form ([L.B.F. 9019-1](#)). A Request to Remove form must be filed with the court no later than twenty-four (24) hours before the hearing.

Rule 9019-2 *Alternative Dispute Resolution.*

- (a) *Setting Mediation.* The court may set a case for mediation provided consideration is given to any reasons advanced by the parties as to why such mediation would not be in the best interest of justice. Once set for mediation, the matter can be removed from mediation by the court or on application by the mediator.
- (b) *Assigning Matters and Cases.* The court may assign to mediation any adversary proceeding or contested matter or any issue within such adversary proceeding or contested matter.
- (c) *Certification of Mediators.*
- (1) The court may certify as many mediators as determined to be necessary under this rule.
 - (2) An individual may be certified to serve as a mediator if:
 - (A) he or she has been a member of the bar of the highest court of a state or the District of Columbia for a minimum of five (5) years;
 - (B) he or she is admitted to practice before this court;
 - (C) he or she has successfully completed a mediation training program established or recognized by the District Court or the Bankruptcy Court for the Middle District of Pennsylvania; and
 - (D) he or she has been determined by the appointing court to be competent to perform the duties of a mediator.
 - (3) The court will solicit qualified individuals to serve as mediators.
 - (4) Each individual certified as a mediator must take the oath or affirmation prescribed by [28 U.S.C. § 453](#) before serving as a mediator.
 - (5) The clerk must maintain a list of all persons certified as mediators.

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- (6) The appointing judge may remove anyone from the list of certified mediators for cause.
 - (7) Persons acting as mediators under this rule are assisting the court in performing its judicial function. They must be disqualified for bias or prejudice as provided by [28 U.S.C. § 144](#) and must disqualify themselves in any action in which they would be required under [28 U.S.C. § 455](#) to disqualify themselves if they were a justice or judge.
- (d) *Compensation and Expenses of Mediators.* A mediator who accepts a case for mediation initially volunteers the time expended to prepare for and conduct a mediation conference or conferences lasting up to a total of four (4) hours. After completion of four (4) hours service, the mediator may either
- (1) continue to volunteer the mediator's time; or
 - (2) give the mediation parties the option to agree to pay the mediator his prevailing hourly rate for bankruptcy services for the additional time spent on the mediation. The parties must each pay a *pro rata* share of the mediator's compensation, unless they agree among themselves to a different allocation. A motion to enforce a party's obligation to compensate a mediator is governed by [F.R.B.P. 9014](#).
- (e) *Frequency of Service.* An individual certified as a mediator will not be called upon more than twice in a twelve (12) month period to serve as a mediator without the prior approval of the mediator.
- (f) *Scheduling Mediation Conference.*
- (1) Upon referral of a case to mediation, the court will serve the order of referral to the mediator, all counsel, and any unrepresented party directing the mediator to establish the date, place, and time of the mediation session. The order will include the address, telephone number, email address and facsimile number of the mediator, counsel, and unrepresented parties. The date of the mediation session must be a date within thirty (30) days from the date of the order of referral.
 - (2) The appointment is effective unless the designee rejects the appointment within seven (7) days.
 - (3) Upon docketing of the order of referral to mediation, the clerk must transmit to the mediator, either by email or regular mail, a copy of the docket sheet that reflects all filings to date. The mediator may identify to the clerk those filed

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documents which the mediator wishes to review for the mediation. Unless otherwise ordered by the court, the clerk shall provide the mediator with electronic or paper copies of the requested documents free of charge.

- (4) A mediator may change the date and time for the mediation session if the session takes place within forty-five (45) days of the date of the order of referral. Any continuance of the session beyond forty-five (45) days must be approved by the court.

(g) *The Mediation Process.*

- (1) Not later than seven (7) days before the initial conference, each party must deliver or send a facsimile or email to the mediator a mediation conference memorandum no longer than two (2) pages, summarizing the nature of the case and the party's position on:
- (A) the major factual and legal issues affecting liability and damages;
 - (B) the relief sought by each party; and
 - (C) the position of the parties relative to settlement.
- (2) The memoranda required by this subdivision are solely for use in the mediation process and are not to be filed with the clerk.

(h) *The Mediation Session.*

- (1) The mediation session must take place on the date and at the time set forth by the mediator. The mediation session must take place at a neutral setting as designated by the mediator that may include the mediator's office. A party must not contact or forward any document to the mediator unless the mediator requests the information or unless as otherwise provided under these rules.
- (2) Counsel primarily responsible for the case and any unrepresented party must attend the mediation session. All parties or principals of parties with decision-making authority must attend the mediation session in person, unless attendance is excused by the mediator for good cause shown. Willful failure to attend the mediation conference must be reported to the court and may result in the imposition of sanctions. The participants must be prepared to discuss:
- (A) all liability issues;
 - (B) all damage issues;

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- (C) all equitable and declaratory remedies if such are requested; and
 - (D) the position of the parties relative to settlement.
- (3) Unless otherwise provided in this Rule, and as may be necessary to the reporting of or the processing of complaints about unlawful or unethical conduct, nothing communicated during the mediation process - including any oral or written statement made by a party, attorney, or other participant, and any proposed settlement figure stated by the mediator or on behalf of any party - may be placed in evidence, made known to the trial court or jury, or construed for any purpose as an admission. No party may be bound by anything done or said during the mediation process except to enforce a settlement agreement or any other agreement achieved in that process.
- (4) In the event the mediator determines that no settlement is likely to result from the mediation session, the mediator must terminate the session and promptly send a report to the court that there has been compliance with the requirements of these paragraphs, but that no resolution has been reached. In the event that a settlement is achieved at the mediation session, the mediator must send a written report to the judge to whom the case is assigned stating that a settlement has been achieved. The parties are responsible for the circulation of any required notice of settlement.
- (5) Notwithstanding the above paragraph, the mediator must submit a written report to the court advising the court of the status of the mediation within sixty (60) days after the order of appointment of the mediator.
- (6) No one may have a recording or transcript made of the mediation session, including the mediator, unless otherwise agreed to by the parties.
- (7) The mediator cannot be called as a witness at trial.
- (i) *Neutral Evaluator.* Anytime after an action or proceeding has been filed, the action may be referred to a neutral evaluator to be selected with the approval of the parties.
- (j) *Relationship to Other Procedures.* Nothing in this Rule modifies the provisions of [Fed.R.Civ.P. 16](#) and [26](#), or L.B.R. 7016-1 or any order of court, nor does it preclude the use of any kind of mediation outside of the mediation process established by this Rule or the use of any other means of alternative dispute resolution.

Rule 9023-1 *Motions for Reconsideration.* A motion for reconsideration must be filed within fourteen (14) days after the entry of the judgment, order, or decree concerned.

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Rule 9023-2 *Post-Trial Motions.*

- (a) *Post-Trial Motions to be Written.* All motions after trial must be written and must contain a certification by counsel for the movant that he or she has sought concurrence in the motion from each party and that it has been either given or denied. In accordance with the procedures set forth in the [Miscellaneous Order 5:05-mp-50007](#) and the [Administrative Procedures](#) available on the court's website (www.pamb.uscourts.gov), every motion must be accompanied by a proposed order. (See L.B.R. 9013-1(b)).
- (b) *Documents Supporting Post-Trial Motions.* When allegations of fact not of record are relied upon in support of a motion, all pertinent affidavits, transcripts of depositions, and other documents must accompany the motion whenever practicable. In any event, such supporting documents must be filed within fourteen (14) days after the motion has been filed, unless otherwise ordered by the court. Affidavits in support of a motion for new trial must be served with the motion as required by [Fed. R. Civ. P. 59\(c\)](#).
- (c) *Grounds.* Post-trial motions must state with particularity any trial errors alleged as grounds for relief.
- (d) *Post-Trial Brief of Moving Party.* The brief of the moving party must be filed within fourteen (14) days after the filing of the motion, unless, upon motion and for good cause shown, the court directs otherwise. If a supporting legal brief is not filed within the time provided, the motion may be deemed to be withdrawn.
- (e) *Post-Trial Brief of Respondent.* The brief of the respondent must be filed within fourteen (14) days after service of the brief of the moving party, unless, upon motion and for good cause shown, the court directs otherwise. If a responsive legal brief is not filed within the time provided herein, the respondent may be deemed not to oppose such motion.
- (f) *After-Discovered Evidence.* A motion for a new trial on the ground of after-discovered evidence must, in addition to all other requirements, be accompanied by the affidavits of the witnesses relied upon, stating the substance of their testimony and the reasons why it could not have been introduced at trial.
- (g) *Disposal of Post-Trial Motions.* Notwithstanding the deadlines set forth in this rule, the court may summarily dispose of post-trial motions at any time during their pendency.

Rule 9024-1 *Relief from Judgment or Order.* A motion filed under [F.R.B.P. 9024](#) is governed by the provisions of L.B.R. 9023-1.

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Rule 9029-1 *Attorney Advisory Committee.* The court will appoint a committee of attorneys who regularly practice in the Bankruptcy Court for the Middle District of Pennsylvania to advise the court on issues identified by the court and by the members of the bar.

- (a) *Membership.* The committee consists of the three judges of the court, the Assistant U.S. trustee for the District, or his or her designee, the chapter 13 trustee, or his or her designee, the President of the Middle District Bankruptcy Bar Association, or his or her designee, and eight attorneys who are engaged in bankruptcy practice in the District and who represent the diverse interests of the District. The bankruptcy attorney members of the committee will be appointed by the Chief Judge after consultation with the other judges of the court and the President of the Middle District Bankruptcy Bar Association. The names of the committee members will be posted on the court's website (www.pamb.uscourts.gov). The clerk, or his or her designee, will serve as the secretary of the committee, and may invite staff to attend the meetings in order to facilitate the discussion of agenda items.
- (b) *Term of Office.* Each bankruptcy attorney members of the committee will serve a three-year term, beginning January 1 of each year. In the event of a vacancy on the committee, the Chief Judge will select a bankruptcy attorney to fill the vacancy for the remainder of the term.
- (c) *Meetings.* The committee will meet quarterly or as otherwise determined by the Chief Judge. All minutes of the committee meetings will be posted on the court's website (www.pamb.uscourts.gov).
- (d) *Duties.* The committee will advise the court on matters of court administration and serve as a liaison between the bankruptcy bar and the court on administrative matters. The Committee, or designated subcommittees thereof, will make any studies and render any reports and recommendations requested by the Court. The Committee, or designated subcommittees thereof, will recommend amendments to the Local Bankruptcy Rules and Forms.

Rule 9070-1 *Exhibits.* Whenever the number of exhibits in any case to be presented at hearing or trial by either party exceeds fifteen (15), the party intending to offer such exhibits must tab, number, and index them in a binder. A complete copy of the exhibits must be provided to all parties at least seven (7) days prior to the trial or hearing, and to the court at the time of trial or hearing, unless otherwise ordered by the court. This requirement applies only to exhibits used in a party's case in chief and not to exhibits used for purposes of impeachment or rebuttal. Failure to timely exchange proposed exhibits in accordance with this Rule may result in the court barring the admissions of any unexchanged exhibits.

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Rule 9070-2 *Exhibits After Final Judgment.* Fourteen (14) days after entry of final, non-appealable judgment, each party is responsible for retrieving any exhibits, models, diagrams, or other physical evidence introduced at trial or hearing. If exhibits are not retrieved within the required time period, the clerk may dispose of the items without notice.

Rule 9071-1 *Stipulations.* Any proposed order requesting approval of a stipulation must be submitted as a separate document.

Rule 9073-1 *Hearings.*

(a) *Testimony of Witnesses.* Unless otherwise directed, all hearings and trials are evidentiary in nature at which witnesses may testify.

(b) *Contested Matters - Procedure.*

(1) *Hearing.* Upon the filing of a motion, the clerk will set a date by which an answer or other responsive pleading must be filed. If a responsive pleading is not filed by the answer date, the court may grant the relief requested subject to the limitations of [F.R.B.P. 9006\(f\)](#). Except as otherwise provided in these rules, no hearing date on the motion will be set.

(2) *Motions.* Notwithstanding the language of paragraph (1), hearings are required and will be set on the following motions:

(a) for relief under [11 U.S.C. § 362\(k\)](#);

(b) for sanctions under [F.R.B.P. 9011](#);

(c) for contempt;

(d) to substantively consolidate under L.B.R. 1015-1(b);

(e) to dismiss the case with prejudice, including all motions filed pursuant to [11 U.S.C. § 109](#); and

(f) to disqualify counsel.

(3) *Approval of Sales of Property Free and Clear of Liens.* While not required in the absence of a responsive pleading, at the request of the movant, a hearing will be held regarding a motion for approval of sales of property free and clear of liens under L.B.R. 6004-5(c).

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Rule 9074-1 *Telephone or Video Appearance.*

- (a) *General Telephone Procedure.* An attorney or pro se party who wishes to participate in a matter telephonically must consult “Telephonic Court Appearance Information (CourtCall)” located on the court’s website (www.pamb.uscourts.gov).
- (b) *Request for Appearance by Video.* A request to appear by video must allege cause and be submitted in writing at least seven (7) days before the scheduled conference or hearing. Requests must include a certificate of concurrence or nonconcurrence from the other parties concerning the request. If the request is granted, the requestor must provide the court with the location and video conference numbers at the remote site. It is the responsibility of the requestor to arrange with the clerk’s office for a test of the system prior to the date of the hearing or conference to ensure compatibility of the conferencing systems.

Rule 9075-1 *Emergency Orders.*

- (a) *General Procedure.* In any case where a party files a pleading that requires an immediate hearing date or is seeking emergency relief from the court (e.g., temporary restraining orders or preliminary injunctions), the proponent must proceed as follows:
 - (1) A separate motion must be filed specifying the reasons why expedited consideration is necessary.
 - (2) All interested parties must be notified of the request by facsimile, email, or other electronic means prior to the filing of the request for expedited consideration.
 - (3) Any motion filed under this Rule must state in the caption that it is an “Emergency Motion” or “Request for Expedited Consideration”. Prior to filing the motion, movant must provide telephonic notice to Chambers.
 - (4) A proposed order granting the motion for expedited relief and identifying a method of prompt service of the order and the underlying substantive motion must be filed with any request for expedited consideration.
- (b) *Emergency Sale.* A seller, without any notice or with such notice as the court directs, may conduct an emergency sale. Such sale may be conducted only upon leave of court obtained after filing a motion specifying the following:
 - (1) the property to be sold;
 - (2) the terms of the sale; and

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- (3) the reasons why the sale must be conducted without notice.

COMMENTS: *L.B.R. 9075-1 was amended effective December 1, 2009 to modify the captioning requirements for requests for expedited relief or consideration and to delete provisions for facsimile transmission to the court.*

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APPENDIX 2016-1

PROJECT CATEGORIES

ASSET ANALYSIS AND RECOVERY: Identification and review of potential assets including causes of action and non-litigation recoveries.

ASSET DISPOSITION: Sales, leases (§365 matters), abandonment and related transaction work.

BUSINESS OPERATIONS: Issues related to debtor-in-possession operating in chapter 11 such as employee, vendor, tenant issues, and other similar problems.

CASE ADMINISTRATION: Coordination and compliance activities, including preparation of statement of financial affairs; schedules; list of contracts; United States trustee interim statements and operating reports; contacts with the United States trustee; general creditor inquiries.

CLAIMS ADMINISTRATION AND OBJECTIONS: Specific claim inquiries; bar date motions; analyses, objections and allowances of claims.

EMPLOYEE BENEFITS/PENSIONS: Review issues such as severance, retention, 401K coverage and continuance of pension plan.

FEE/EMPLOYMENT APPLICATIONS: Preparations of employment and fee applications for self or others; motions to establish interim procedures.

FEE/EMPLOYMENT OBJECTIONS: Review of and objections to the employment and fee applications of others.

FINANCING: Matters under §§361, 363 and 364 including cash collateral and secured claims; loan document analysis.

LITIGATION: There should be a separate category established for each matter (e.g. XYZ Litigation).

MEETINGS OF CREDITORS: Preparing for and attending the conference of creditors, the §341(a) meeting, and other creditors' committee meetings.

PLAN AND DISCLOSURE STATEMENT: Formulation, presentation, and confirmation; compliance with the plan confirmation order, related orders, and rules; disbursement and case closing activities, except those related to the allowance and objections to allowance of claims.

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RELIEF FROM STAY PROCEEDINGS: Matters relating to termination or continuation of automatic stay under §362.

The following categories are generally more applicable to accountants and financial advisors, but may be used by all professionals as appropriate.

ACCOUNTING/AUDITING: Activities related to maintaining and auditing books of account, preparation of financial statements, and account analysis.

BUSINESS ANALYSIS: Preparation and review of company business plan; development and review of strategies; preparation and review of cash flow forecasts and feasibility studies.

CORPORATE FINANCE: Review financial aspects of potential mergers, acquisitions, and disposition of company or subsidiaries.

DATA ANALYSIS: Management information systems review, installation and analysis, construction, maintenance and reporting of significant case financial data, lease rejection, claims, etc.

LITIGATION CONSULTING: Providing consulting and expert witness services relating to various bankruptcy matters such as insolvency, feasibility, avoiding actions; forensic accounting, etc.

RECONSTRUCTION ACCOUNTING: Reconstructing books and records from past transactions and bringing accounting current.

TAX ISSUES: Analysis of tax issues and preparation of state and federal tax returns.

VALUATION: Appraise or review appraisals of assets.