

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS



Summary of Proposed Local Rule Revisions

Proposed revisions to the Texas Western Bankruptcy Court's local rules of practice and related documents are hereby published for public comment. Please email comments to rules@txwb.uscourts.gov by October 8, 2024.

- I. **Background.** The local rules of the United States Bankruptcy Court for the Western District of Texas were last revised on November 1, 2013. Since that time, the Court has entered various standing orders amending and supplementing its local rules to keep its rules current. The timing is ripe to incorporate many of the Court's standing orders into its local rules, and to otherwise revise its rules based on developments in bankruptcy practice over the last several years.

A local rules committee, chaired by Chief Bankruptcy Judge Craig A. Gargotta, was assembled and tasked with reviewing the Court's local rules and standing orders and proposing revisions for judicial review. The committee expended tremendous effort reviewing, updating, and drafting new rules and procedures. Highlights include (1) new subchapter V of chapter 11 procedures and forms, including a new subchapter V form plan; (2) revised complex chapter 11 procedures; (3) revised administrative policies and procedures for electronic filing; and (4) standardization of many of the division-by-division chapter 13 processes into a district-wide process. Additionally, a revision to the district-wide form chapter 13 plan is being finalized, and will be published for comments soon.

- II. **Local Rule Revisions.** A summary of proposed revisions to the local rules is provided below. As this is a substantial revision to the local rules and appendices, bankruptcy practitioners should carefully read each local rule and appendix, and not rely on this summary information alone to understand the substance of a rule or procedure.

Please note that each local rule is appended with a "-1" to comply with the Judiciary's *Uniform Numbering System for Local Bankruptcy Courts*. Also, local rules with minor, non-substantive changes, including formatting and grammatical revisions, are omitted from this summary.

- a. **L. Rule 1001-1 – Scope of Rules and Forms; Short Title.** Subsection (d) is revised to include additional defined words or phrases.

- b. **L. Rule 1002-1 – Commencement of Case.** Subsection (b) is revised to incorporate the [Amended Standing Order Relating to Divisional Venue Assignment for Chapter 7, 12 and 13 Cases](#), signed December 27, 2017.
- c. **L. Rule 1004 – Partnership Petitions.** Deleted.
- d. **L. Rule 1004.1-1 – Filing on Individual Debtor’s Behalf.** This local rule is new. Subsection (a) requires that the appointment instrument be filed with the petition when a petition is filed on the debtor’s behalf by a court-appointed guardian or conservator. Subsection (b) requires that a motion be filed with the petition requesting that the Court appoint the filing party when the petition is filed by the holder of a power of attorney, proposed guardian ad litem, or proposed next friend. Subsection (c) provides procedures to appoint a representative to act on the debtor’s behalf when the debtor becomes incompetent.
- e. **L. Rule 1006-1 – Payment of Filing Fee in Installments.** This local rule is revised to incorporate the [Standing Order Relating to Payment of Filing Fees in Installments](#), signed November 8, 2017. The rule requires that at least 50% of the filing fee be paid within 7 days of the petition date for debtors applying to pay the filing fee in installments.
- f. **L. Rule 1007-1 – Lists, Schedules, and Statements.** Subsection (c) requires that new Local Form, Appendix 1007-1 Declaration of Evidence of Employers’ Payments be filed to comply with section 521(a)(1)(B)(iv). Subsection (d) requires certain information to be included in a motion to extend time to file documents. Subsection (f) requires the debtor to provide post-petition tax returns to the chapter 13 trustee within 30-days of filing the return. Subsection (f) also incorporates provisions of the various standing orders relating to chapter 13 case administration, including the [Standing Orders for Chapter 13 Case Administration](#) in the Austin, El Paso, Waco, and Midland divisions, signed November 2, 2017.
- g. **L. Rule 1017-1 – Dismissal or Conversion of the Case.** Subsection (c) removes the requirement for a party to file a motion seeking dismissal of a case under section 521(i) when the debtor fails to file documents required under section 521(a)(1) within 45-days after the petition date. The revised rule now provides that the Court shall dismiss the case (on or about the 46th day) without further notice unless an extension of the deadline has been obtained. Subsection (e) relates to summary dismissals under section 1307(c) and further incorporates provisions of the various standing orders relating to chapter 13 case administration, including the [Standing Orders for Chapter 13 Case Administration](#) in the Austin, El Paso, Waco, and Midland divisions, signed November 2, 2017.
- h. **L. Rule 1020.1-1 – Complex Chapter 11 Cases.** Formerly L. Rule 1020, this revised local rule incorporates procedures for the administration of complex chapter 11 cases. The procedures and forms are included as appendix L-1020.1-1. This is a substantial revision that should be carefully read by all chapter 11 practitioners.
- i. **L. Rule 1020.2-1 – Subchapter V of Chapter 11 Cases.** Subchapter V of chapter 11 was added to the Bankruptcy Code effective February 19, 2020, by the *Small Business Reorganization Act of 2019*. This new local rule incorporates appendix L-1020.2-1, which provides procedures and mandatory forms – including a subchapter V form plan – for the administration of subchapter V cases filed in the Western District of Texas. This is a substantial addition to the local rules that should be carefully read by all bankruptcy practitioners.

- j. **L. Rule 2004-1 – Examination.** Subsection (b) is revised to permit a party to request production of documents under FRBP 9016 in connection with the Rule 2004 examination. Subsection (c) now requires that the notice of intent to conduct Rule 2004 examination be filed with the Court.
- k. **L. Rule 2007.1 – Appointment of a Trustee or Examiner in a Chapter 11 Reorganization Case.** Deleted.
- l. **L. Rule 2014-1 – Employment of Professional Persons.** Subsection (b)(2) is revised to provide two exceptions to the general requirement that a copy of the contract setting forth the terms of compensation be included when a chapter 7 trustee files an application to employ a professional. The exceptions are when the trustee seeks employment of (1) an accountant on a flat fee basis or (2) an auctioneer of personal property with a cumulative, scheduled value of less than \$50,000, on a percentage-fee basis. However, all applications for employment shall now include a Rule 2016(b) disclosure. Subsection (b)(3) provides that only one application be filed by a chapter 7 trustee for the employment of an accountant on a flat fee basis for the preparation of yearly tax returns for the estate under certain conditions. Subsection (c) clarifies that that an application filed greater than 30 days after the professional’s commencing services is deemed not contemporaneous and may be granted only for cause shown. Subsection (e) regarding withdrawal and substitution of counsel was deleted from L. Rule 2014-1 but added to new L. Rule 9010-1.
- m. **L. Rule 2016-1 – Compensation of Professionals.** This local rule is substantially revised and should be carefully read by all bankruptcy practitioners. The revised local rule generally incorporates provisions of the various standing orders relating to chapter 13 case administration, including the [Standing Orders for Chapter 13 Case Administration](#) in the Austin, El Paso, Waco, and Midland divisions, signed November 2, 2017. It also incorporates the [Standing Order: \(I\) that Pro Bono Legal Counsel are not Debt Relief Agencies and \(II\) that Pro Bono Counsel for Debtors are not Subject to Sections 526 through 528 of the Bankruptcy Code](#), signed October 6, 2015. Subsection (a) relates to fee disclosures and the duty imposed on debtor’s counsel to represent the debtor for all purposes in the bankruptcy case except as provided in subsection (b). Subsection (b) limits unbundling of legal services to adversary proceedings and appeals. Subsection (c) relates to pro bono representation and requires a Rule 2016(b) disclosure but deems an attorney representing a debtor on a pro bono bases as not a “debt relief agency” and therefore not required to comply with the provisions of sections 526, 527, and 528. Subsection (f) provides procedures for seeking compensation and provides the required benchmark services in chapter 13 cases. It is accompanied by new [Standing Order Regarding Benchmark Fees in Chapter 13 Cases](#), which sets forth the specific benchmark fee in chapter 13 cases approved by the Court.
- n. **L. Rule 2090-1 – Admission *Pro Hac Vice*.** Subsection(b) clarifies that an attorney seeking admission *pro hac vice* should first register to become an Electronic Filer and then file the *pro hac vice* motion using the Court’s form motion and order.
- o. **L. Rule 3002-1 – Filing Proof of Claim or Interest.** Subsection (b) is deleted from the revised local rule which previously required a secured creditor in a chapter 12 or 13 case to file a proof of claim for the claim to be allowed. However, subsection (e) of revised local rule 3007-1 now requires a creditor in a chapter 13 case to file a claim by the applicable deadline to receive a distribution under the confirmed plan.

- p. **L. Rule 3002.1-1 – Notice Relating to Claims Secured by Security Interest in the Debtor’s Principal Residence.** The revised local rule generally incorporates provisions of the various standing orders relating to chapter 13 case administration, including the [Standing Orders for Chapter 13 Case Administration](#) in the Austin, El Paso, Waco, and Midland divisions, signed November 2, 2017. Subsection (a) is deleted from the revised local rule, which previously provided that notices under FRBP 3002.1(b), (c), and (f) were no longer required after the Court granted relief from the automatic stay with respect to the debtor’s principal residence. New subsection (b) authorizes the chapter 13 trustee to pay any fees, expenses, or charges based on FRBP 3002.1 notices and allows the trustee to file a Notice of Increase of Plan Payments.
- q. **L. Rule 3007-1 – Objections to Claim.** Subsections (a), (b), (c), and (d) are revised to incorporate the [Standing Order Regarding Objections to Proofs of Claim](#), signed December 19, 2017. Subsection (e) requires a creditor in a chapter 13 case to file a claim by the applicable deadline to receive a distribution under the confirmed plan. Subsection (f) sets forth the chapter 13 Notice of Intent to Pay Claims process. Further, subsections (e) and (f) incorporate provisions of the various standing orders relating to chapter 13 case administration, including the [Standing Orders for Chapter 13 Case Administration](#) in the Austin, El Paso, Waco, and Midland divisions, signed November 2, 2017.
- r. **L. Rule 3011-1 – Unclaimed Funds in Chapter 7 Liquidation, Subchapter V of Chapter 11 Small Business Debtor Reorganization, Chapter 12 Family Farmer’s Debt Adjustment, and Chapter 13 Individual’s Debt Adjustment Cases.** The title of the rule is revised consistent with FRBP 3011 to add subchapter V of chapter 11.
- s. **L. Rule 3012-1 – Valuation of Security.** Subsection (b) incorporates provisions in the District-Wide Form Plan that allows motions for valuation and motions to avoid a lien to be included in the chapter 13 plan pursuant to the [Consolidated Standing Order for the Adoption of a District Form Chapter 13 Plan](#), signed October 16, 2017.
- t. **L. Rule 3015-1 – Chapter 13 Plan and Confirmation Hearings.** This revised rule incorporates the [Consolidated Standing Order for the Adoption of a District Form Chapter 13 Plan](#), signed October 16, 2017. It also incorporates provisions of the various standing orders relating to chapter 13 case administration, including the [Standing Orders for Chapter 13 Case Administration](#) in the Austin, El Paso, Waco, and Midland divisions, signed November 2, 2017. Subsection (a) requires use of the district-wide form plan in all chapter 13 cases. Subsection (b) requires amended plans to be filed and served not less than 28-days prior to the confirmation hearing. A certificate of service is required for any plan or amended plan. Subsection (c) requires that any creditor or party in interest other than the chapter 13 trustee file a written objection to the plan no later than 14-days before the confirmation hearing date. Objections to confirmation must be specific and provide legal authority, if applicable. Subsection (e) requires the debtor to execute and file Local Form (Appendix) L-3015-1, *Declaration of the Debtor Concerning Confirmation Requirements*, not more than 7-days prior but at least 3-days prior to the confirmation hearing. Subsection (f) clarifies information that shall be included in a motion to modify a confirmed plan. Subsection (g)(2) requires the debtor to file a response to pending objections no later than 3-business days prior to the confirmation hearing. If no response is filed, the court may elect to deny confirmation by default. Subsection (i) provides processes for conduit mortgage payments paid through the chapter 13 trustee.

- u. **L. Rule 3017-1 – Approval of Disclosure Statement in Chapter 11 Cases.** This revised local rule requires that an objection to a disclosure statement be filed and served no less than 7-days before the hearing on the disclosure statement.
- v. **L. Rule 4001-1 – Relief from Automatic Stay; Prohibiting or Conditioning Use, Sale, or Lease of Property; Use of Cash Collateral; Obtaining Credit.** Subsection (a)(2) is revised to add additional 14-day negative notice language regarding filing a response to the motion for relief and cautioning that if the respondent does not appear at the hearing the Court may decide that the respondent no longer opposes the motion. Subsection (a)(4) requires the movant to file affidavits when used as evidence at the hearing in support of factual allegations in the motion. [The rule previously provided that affidavits not be filed.] Subsection (e) requires a chapter 13 debtor when filing a motion to incur debt to file a current schedule I and J with the motion. However, the revised local rule provides that a motion and order to incur debt is not required for a chapter 13 debtor seeking a mortgage loan modification. A motion to incur debt is also not required for a chapter 13 debtor seeking a one-time emergency loan up to \$1,000; however, after obtaining the emergency loan, the debtor must file a notice within 30-days disclosing the loan amount and the circumstances surrounding the emergency loan.
- w. **L. Rule 4004-1 – Grant or Denial of Discharge.** Subsection (d) provides the process for obtaining a discharge after chapter 13 plan completion and incorporates provisions of the various standing orders relating to chapter 13 case administration, including the [Consolidated Standing Order for the Adoption of a District Form Chapter 13 Plan](#), signed October 16, 2017, and the [Standing Orders for Chapter 13 Case Administration](#) in the Austin, El Paso, Waco, and Midland divisions, signed November 2, 2017.
- x. **L. Rule 5005-1 – Administrative Policies and Procedures for Electronic Filing.** This rule adopts the administrative procedures for electronic filing. The procedures were substantially revised to capture the Court’s current electronic filing policies and procedures based, in part, on technological advances to the PACER/ECF system. The procedures also incorporate provisions of several standing orders, including the [Standing Order Relating to Non-Attorney Professional Electronic Filer Accounts](#), signed September 18, 2018; the [Standing Order Relating to Declarations for Electronic Filing](#), signed February 21, 2018; The [Standing Order Regarding Mandatory Electronic Filing](#), signed April 27, 2011; the [Amended Standing Order Regarding Privacy Related Rules](#), signed November 15, 2024; and the [Second Amended Standing Order Relating to the Submission of Orders](#), signed December 4, 2002.
- y. **L. Rule 6004-1 – Use, Sale, or Lease of Property.** Subsection (b) requires additional details be included with notice of a motion to use, sell, or lease property.
- z. **L. Rule 7015-1 – Amended and Supplemental Pleadings.** Subsection (a) requires that a motion to amend or supplement a pleading include as an attachment a complete, *redlined* copy of the proposed amended or supplemental pleading. Subsection (c) is new and sets forth the consequence of failing to seek leave to file an amended pleading – the Court may strike the amended pleading.
- aa. **L. Rule 7016-1 – Pretrial Procedures; Formulating Issues.** Subsection (f) is revised to limit trial briefs to 25 pages, cumulative of all such trial briefs submitted by a party. Subsection (g) provides that exhibits may be filed in the ECF docket, but the filing of electronic exhibits does not excuse a party from providing the appropriate numbers of paper copies per each Judge’s

internal policies. Parties are instructed to consult with each Judge's Chambers for any specific guidance on the use of electronic or paper exhibits.

- bb. **L. Rule 7030-1 – Depositions Upon Oral Examination.** Subsection (b) is expanded to provide that absent an agreement by the parties, objections to questions during a deposition are limited to “Objection, leading” and “Objection, form.” Objections to testimony during a deposition are limited to “Objection, unresponsive.” Any objections to the form of the question or responsiveness of the answer are waived if not properly stated during a deposition. All other objections need not be made or recorded during a deposition to be later raised with the Court.
- cc. **L. Rule 7055-1 – Default; Default Judgment.** This local rule is new and provides in subsection (a) that a plaintiff seeking default under FRCP 55(a) shall file a Request for Clerk's Entry of Default within 30-days after expiration of a defendant's time to answer, appear or otherwise defend against a complaint. Subsection (b) provides that within 30-days after a Clerk's Entry of Default, a plaintiff shall seek a default judgment under FRCP 55(b). Failure to act may result in dismissal for want of prosecution without further notice.
- dd. **L. Rule 9004-1 – General Requirements of Form.** Subsection (a) is revised to require any document filed with the Court to contain a proper case caption as set forth in the revised rule.
- ee. **L. Rule 9010-1 – Representation and Appearances; Powers of Attorney.** This local rule is new and provides in Subsections (a), (b), and (c) the process for attorneys in various roles to withdraw from a case. Subsection (d) identifies those parties that shall be served with a motion to withdraw or a notice to withdraw under this local rule.
- ff. **L. Rule 9013-1 – Motions and Other Documents; Form and Service.** This revised rule generally replaces the word “pleadings” with the word “documents.” Subsection (c) excludes notices of appearance from the requirement that all motions, applications, objections to claim, and all responses contain a certificate of service reflecting service on affected entities. The revised local rule further excludes parties served through the Court's electronic transmission facilities – *CM/ECF Notice of Electronic Filing (NEF)* – from having to be listed in the certificate of service. The certificate of service is now only required to list those entities not served with a NEF.
- gg. **L. Rule 9014-1 – Contested Matters.** Subsection (a) revises and expands the negative notice language used before the body of a pleading.
- hh. **L. Rule 9015-1 – Jury Trial Procedures.** New subparagraph (a) provides that this rule shall apply in adversary proceedings and contested matters.
- ii. **L. Rule 9019-1 – Compromise.** New subsection (d) incorporates the [Standing Order Adopting Chapter 13 Loan Modification Program](#), signed August 21, 2020.
- jj. **L. Rule 9027-1 – Removal or Abstention.** Subsection (b) is revised to set forth procedures for filing a removal action under FRBP 9027. The revised local rule further requires any motion for remand to be filed no later than 30-days after the date of filing of the notice of removal.
- kk. **L. Rule 9033-1 – Proposed Findings of Fact and Conclusions of Law.** This local rule is new and provides that if the Court determines that it cannot enter a final order or judgment consistent

with Article III of the United States Constitution in a particular proceeding referred to the Court and designated as core under 28 U.S.C. Section 157(b), and the court hears the proceeding, then FRBP 9033(a), (b), and (c) shall apply as if it is a noncore proceeding.

- ii. **L. Rule 9073-1 – Hearings.** This local rule is new and adopts judiciary policy regarding the parties that may attend a Court proceeding, trial, or hearing either in-person, remotely by video conference, remotely by telephone conference, or a combination of in-person and remote appearances. The rule provides that members of the public may observe a trial or hearing in-person in the courtroom unless the presiding judge directs otherwise, such as in sealed, secret, or confidential matters. Members of the public may not appear by video conference but may be permitted to appear telephonically in non-evidentiary hearings. Recording, broadcasting, televising, or taking photographs in the courtroom and in adjacent areas, including the offices of the clerk of court, is strictly prohibited, unless authorized in writing by the presiding judge.

III. **Local Rule Appendices Revisions.** A summary of proposed revisions to the local rule appendices follows:

- a. **Appendix L-1007-1 – Declaration of Evidence of Employers’ Payments within 60 Days.** This local form is new and is required to be filed by all individual debtors under L. Rule 1007-1.
- b. **Appendix L-1020.1-1 – Procedures for Complex Chapter 11 Cases.** This is a substantial revision that should be carefully read by all chapter 11 practitioners.
- c. **Appendix L-1020.2-1 – Procedures for Subchapter V Cases.** This is a substantial addition to the local rules that should be carefully read by all bankruptcy practitioners. This appendix provides procedures and mandatory forms – including a subchapter V form plan – for the administration of subchapter V cases filed in the Western District of Texas.
- d. **Appendix L-3015-1 – Declaration of the Debtor Concerning Confirmation Requirements.** Local form (Appendix) L-3015-1 is new and is required to be filed by all chapter 13 debtors no earlier than 7-days prior but at least 3-days prior to the confirmation hearing.
- e. **Appendix L-4004-1 – Certification of Eligibility for Chapter 13 Discharge after Completion of Plan Payments.** Local form (Appendix) L-4004-1 is new and is required to be filed by all debtors seeking a chapter 13 discharge within 30-days after the trustee files its Notice of Completion of Plan Payments.
- f. **Appendix L-4004-2 – Notice Regarding the Filing of Objection(s) to Entry of Discharge.** Local form (Appendix) L-4004-2 is new and provides notice to all creditors and parties in interest of a 30-day opportunity to object to the entry of a chapter 13 discharge order. The notice is required to be served upon the filing of the *Certification of Eligibility for Chapter 13 Discharge after Completion of Plan Payments* by either the debtor or the chapter 13 trustee (depending on the trustee’s standard practice in the applicable division).