

UNITED STATES BANKRUPTCY COURT
DISTRICT OF HAWAII

In re:

LOCAL BANKRUPTCY RULES.

GENERAL ORDER

Dated: December 23, 2020

ORDER ADOPTING AMENDMENTS
TO LOCAL BANKRUPTCY RULES, EFFECTIVE JANUARY 1, 2021

As authorized by Rule 9029(a) of the Federal Rules of Bankruptcy Procedure and LR1070.1(e) of the United States District Court for the District of Hawaii, the court adopts the attached amendments to the local bankruptcy rules, effective January 1, 2021.

SO ORDERED.



/s/ Robert J. Faris

United States Bankruptcy Judge

Dated: 12/23/2020

LBR 2002-2. Notices to Creditors Whose Claims are Filed [NEW]

Unless the court orders otherwise in a particular case, Bankruptcy Rule 2002(h) applies to all cases covered by that rule.

LBR 2015-1. Trustees - Payment of Administrative Expenses

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(b) Expenses Exceeding \$1,000. The trustee may obtain an order approving the payment of administrative expenses exceeding \$1,000 by filing a motion and notice substantially conforming to the local form (Trustee's Motion to Approve Payment of Administrative Expense and Notice of Opportunity to Object), providing 14-day notice of a deadline to file an objection. The trustee shall serve the motion and notice on all parties entitled to notice under Bankruptcy Rule 2002 (Bankruptcy Rule 2002(h) applies).

LBR 2016-1. Compensation of Professionals

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(g) Chapter 13 Debtor's Attorney Fees.

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(3) Allowance of Compensation as Part of Plan Confirmation.

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(B) Fees Exceeding Amounts in Guidelines. If the fees being requested exceed the amounts in the guidelines, or if the particular services are not addressed by the guidelines, an attorney whose initial fees were allowed by the plan confirmation order may request the allowance of additional compensation by filing and serving on the Trustee, the Office of the United States Trustee, and, unless Bankruptcy Rule 2002(h) applies, all creditors, an application substantially conforming to the local form (Application for Additional Fees in Chapter 13 Case; Notice of Hearing), attaching detailed billing records for the subject services, and arranging for a hearing in accordance with LBR 9013-1(c).

LBR 2083-1. Chapter 13 - General

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(c) Debtor's Motion to Approve Sale of Property. A chapter 13 debtor may request an order approving a sale of property by filing a motion substantially conforming to the local form (Debtor's Motion to Approve Sale in Chapter 13 Case), in accordance with LBR 9013-1(c), and serving it on the trustee, the United States Trustee, any party claiming an interest in the subject property, and all parties entitled to notice under Bankruptcy Rule 2002 (Bankruptcy Rule 2002(h) applies). The motion must include a report as to the status of title and liens for the subject property. The motion may include a request for approval of any compensation to be paid to the debtor's attorney for services related to the motion and payment of a commission or other fees to a sales agent, auctioneer, or other professional for services performed in connection with the sale, if (i) the amount requested does not exceed the applicable amount under the Chapter 13 Attorney Fee Guidelines, and (ii) the compensation will be paid directly from the proceeds of the sale and will not diminish the amount distributable to unsecured creditors.

LBR 2083-1. Chapter 13 - General

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(e) Trustee's Motion to Dismiss

(1) Motion to Dismiss for Lack of Feasibility. If the trustee determines from the proofs of claims actually filed that the confirmed plan is not feasible, i.e. there will be insufficient funds to pay in full all administrative expenses, secured claims, priority claims, and any claims placed in a special class for full payment, the trustee may file and serve on the debtor a motion to dismiss for lack of feasibility substantially conforming to the local form (Trustee's Motion to Dismiss for Lack of Feasibility; Notice of Deadline). The court may grant the motion to dismiss without further notice or hearing if within 28 days after the date of filing of the motion, the debtor fails to file an objection to a claim or a motion to modify the confirmed plan that would ensure feasibility, or if the debtor fails to prevail on such an objection to claim or motion to modify the confirmed plan.

(2) Motion to Dismiss for Failure to Make Plan Payment or Other Cause.

* * *

(B) Conditional Relief. The trustee's motion to dismiss may provide for dismissal of the case unless, within 21 days after the hearing on the motion or such other additional time agreeable to the trustee, the debtor satisfies the plan payment arrearage or other deficiency, or the debtor files a notice of conversion to a case under another chapter. If the debtor is provided a deadline to file a motion for some other relief, such as a plan modification, and the motion is filed timely and granted, the trustee's motion to dismiss will be deemed withdrawn. If the debtor's motion is denied, the clerk may enter an order dismissing the case without further notice or hearing.

LBR 3070-2. Chapter 13 - Distributions

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(j) Payment of Debtor's Attorney Fees.

(1) In General. It is the attorney's responsibility to determine whether the funds distributed must be placed in the attorney's client trust account or may be placed in the attorney's operating account. Unless the court orders otherwise, the following provisions govern distribution amounts for payment of attorney fees. "Unpaid Compensation" means any unpaid compensation or reimbursement that has been allowed by a court order, less any funds held in a client trust account for the debtor, as of the date that the trustee calculates the relevant distribution. "Available Funds" means all funds received by the trustee as payments under the confirmed plan in a case that have cleared as of the date that the trustee calculates the monthly distribution amounts.

2) Compensation Allowed Under Chapter 13 Attorney Fee Guidelines.

(A) Prior to Confirmation. If the debtor's attorney seeks compensation under the Chapter 13 Attorney Fee Guidelines ("Fee Guidelines"), the trustee shall not make any distribution to the debtor's attorney until the court enters the plan confirmation order.

(B) Initial Distribution. At the time of the trustee's first monthly distribution after entry of the confirmation order, the trustee shall disburse to the attorney an amount equal to the lesser of (i) the Unpaid Compensation and (ii) 50% of all Available Funds.

(C) Subsequent Distributions. At the time of each subsequent distribution, the trustee shall disburse to the debtor's attorney an amount equal to the lesser of (i) the Unpaid Compensation, and (ii) 50% of the Available Funds. After the trustee has fully paid all claims with statutory priority over general unsecured claims, the trustee shall disburse to the debtor's attorney the full amount of all subsequent distributions until the Unpaid Compensation is paid in full.

LBR 6004-1. Sale of Estate Property

(a) Sales Free and Clear of Liens.

(1) Motion Required. A party may obtain an order authorizing the sale of estate property free and clear of liens or other interests by filing a motion and serving it on the trustee, the United States Trustee, any party claiming an interest in the subject property or directly affected by the proposed sale, and all parties entitled to notice under Bankruptcy Rule 2002 (Bankruptcy Rule 2002(h) applies to all chapter 7, 12, and 13 cases). Unless the court orders otherwise, the motion must provide that liens and other interests will attach to the proceeds of the sale. The motion must attach a cover sheet substantially conforming to the local form (Cover Sheet - Motion to Sell Property), must identify the name and address of each lienholder and any other party whose property rights are affected by the proposed sale, and must identify on the cover sheet the basis for compliance with § 363(f). In addition to the information on the cover sheet, the motion must include, immediately below the caption, the statement: "THIS MOTION AFFECTS THE PROPERTY RIGHTS OF..." with the name of each holder of a lien or other interest whose property rights are affected.

LBR 9019-1. Settlements

(a) When Motion Required. Except as provided in subdivision (b), a party may seek court approval of a settlement or stipulation by filing a motion pursuant to LBR 9013-1(c) and serving it on the trustee, the United States Trustee, and all parties entitled to notice under Bankruptcy Rule 2002 (Bankruptcy Rule 2002(h) applies to all chapter 7, 12, and 13 cases). If the motion concerns settlement of an adversary proceeding, the motion and notice must be entered on the docket in the bankruptcy case.