

UNITED STATES BANKRUPTCY COURT

DISTRICT OF HAWAII

In re:

LOCAL BANKRUPTCY RULES.

GENERAL ORDER

Dated: May 1, 2024

**ORDER ADOPTING AMENDMENTS TO LOCAL
BANKRUPTCY RULES 3011-1 AND 3015-2, EFFECTIVE MAY 1, 2024**

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, and after notice for public comment, the court adopts amendments to LBR 3011-1 (Unclaimed Funds) and LBR 3015-2 (Amendment of Plan Before Confirmation), attached hereto, effective May 1, 2024. The amended rules apply in all pending bankruptcy cases and proceedings to the extent practicable.

SO ORDERED.



/s/ Robert J. Faris

United States Bankruptcy Judge

Dated: 05/01/2024

LBR 3011-1. Unclaimed Funds

- (a) **Form of Application.** A party seeking a disbursement of unclaimed funds that have been deposited with the clerk must file an application substantially conforming to the local form (Application for Unclaimed Funds). The application and supporting documentation must be submitted on paper for filing with the court.
- (b) **Supporting Documentation.**
- (1) ***Application by Owner of Record (Original Payee).*** The person to whom the unclaimed funds were payable according to the court's records when they were deposited with the clerk is the "Owner of Record." The party filing the application is the "applicant."
 - (A) ***Individual Owner of Record.*** If the applicant is an individual who is the Owner of Record and whose name has changed since the funds were deposited with the court, the applicant must submit documentation of the name change.
 - (B) ***Non-Individual Owner of Record.*** If the applicant is a corporation, partnership, limited liability company, or other business or governmental entity that is the Owner of Record, the applicant must submit documentation showing that the individual signing the application has authority to do so on behalf of the applicant, such as articles of incorporation, board meeting minutes, or other documentation.
 - (2) ***Application by Successor to Owner of Record.***
 - (A) ***Successor to Individual Owner of Record.***
 - (i) ***Assignment.*** If the applicant is the assignee of an Owner of Record, the applicant must submit a copy of the assignment containing the notarized signature of the assignor.

- (ii) *Deceased Owner's Estate.* If the applicant is a personal representative of a deceased Owner of Record's estate, the applicant must submit a certified copy of a letter of administration or other document authorizing the representative to file the application on behalf of the decedent's estate.
 - (B) *Successor to Non-Individual Owner of Record.* If the applicant is a successor in interest to a corporation, partnership, limited liability company, or other business or governmental entity that is the Owner of Record, the applicant must submit documentation of the transfer, assignment, purchase, merger, acquisition, or succession by other means, together with documentation showing authority for the signing representative to file the application on behalf of the applicant.
 - (C) *Signatures.* In addition to the notarized signatures required on the application form, the individual signing the application must provide a copy of a valid photo identification issued by a government agency, such as a driver's license or a passport.
 - (D) *Taxpayer Information.* The applicant must provide a W-9 or alternate form that provides the applicant's taxpayer information.
 - (E) *Privacy Protection.* The clerk shall file under seal the supporting documentation to restrict public access to any personally identifiable information protected by statute, regulation, or rule.
- (c) **Competing Applications.** If there are competing applications for the same unclaimed funds, the court will usually make payment to the Owner of Record rather than to an applicant who claims to be a successor in interest or representative of the Owner of Record. If more than one applicant claims to be the Owner of Record's legal representative, the earliest application generally will be given

priority. The court may request further documentation or schedule a hearing in these situations.

- (d) **Service on United States Attorney.** The applicant must serve a copy of the application on the Office of the United States Attorney, District of Hawaii, and must file a signed certificate of service showing that the application with any supporting documentation was served on the United States Attorney. The certificate should also include any other parties served.

LBR 3015-2. Amendment of Plan Before Confirmation

(a) Amendment of Plan Before Confirmation.

- (1) *Amended Plan.* The debtor may file an amended chapter 13 plan any time before confirmation by filing and serving on all creditors a plan substantially conforming to the local form plan (H113). The debtor must check the box labeled "Amended" and indicate the date and time of the hearing on confirmation of the amended plan.
- (2) *Requests for Valuation and Avoidance of a Lien.* An amended plan that includes a request for valuation of collateral (Attachment A) or avoidance of a lien (Attachment B) must be served on a secured creditor as required by Bankruptcy Rule 7004 even if the request has not been amended.
- (3) *Objections.*
 - (A) *Prior Objection Deemed Moot.* An objection to a chapter 13 plan becomes moot upon the filing of an amended plan. If a party remains opposed to confirmation of an amended plan, the party must file a new objection.
 - (B) *Deadline to Object.* An objection to an amended plan must be filed not later than the time specified in LBR 3015-3(a).

(b) Modification of Plan After Confirmation.

- (1) *Debtor's Motion.*
 - (A) *Form of Motion and Notice.* The debtor may request modification of a confirmed plan by filing a motion and notice of hearing substantially conforming to the local form (**Debtor's Motion to Modify Confirmed Plan; Notice of Hearing**). A copy of the entire plan as modified need not be filed so long as the motion describes with specificity the proposed modifications to the plan then in effect.

- (B) *Service.* A debtor's motion and notice must be served promptly on the trustee and:
- (i) all creditors and parties in interest; or
 - (ii) if the motion is filed after the deadline to file a proof of claim, only those parties who have filed a proof of claim.
- (2) *Motion by Trustee or Creditor.* A motion to modify a confirmed chapter 13 plan brought by a party other than the debtor, including the trustee's motion to extend the plan's duration, must be made pursuant to LBR 9013-1(c), except that a response to the motion must be filed not later than 7 days before the hearing date. The trustee may request a plan extension up to 60 months after the time the first payment was due under the confirmed plan by filing a motion and notice of hearing substantially conforming to the local form (**Trustee's Motion to Extend Plan; Notice of Hearing**). The trustee is not required to file a certificate of service if the clerk serves the trustee's motion and notice using the court's transmission facilities.