

## LBR 7001-2. Effect of Dismissal of Bankruptcy Case on Pending Adversary Proceeding

Whenever a case is dismissed, the court may, without notice or hearing, dismiss without prejudice any adversary proceeding filed in connection with that case, and remand any proceedings that have been removed to the bankruptcy court in connection with that case.

## LBR 7003-1. Cover Sheet

Every complaint initiating an adversary proceeding must be accompanied by a cover sheet substantially conforming to the Director's Procedural Form (**Adversary Proceeding Cover Sheet**).

## LBR 7016-1. Pretrial Procedures

**(a) Counsel's Duty of Diligence.** Counsel for parties and self-represented parties in an adversary proceeding must diligently take all steps necessary to bring the action to trial.

**(b) Scheduling Conference.**

**(1) Conference Date and Time.** Upon the filing of a complaint, the plaintiff must obtain a scheduling conference date and time from the court.

**(2) Scheduling Conference Statement.** Not later than 7 days before the scheduling conference, each party must file with the court and serve on all other parties a scheduling conference statement addressing the following subjects:

- (A)** A short statement of the nature of the case;
- (B)** A statement of jurisdiction with cited authority for jurisdiction and a short description of the facts conferring venue, and a statement whether the pleader does or does not consent to entry of final orders or judgment by the bankruptcy court;
- (C)** Whether a jury trial has been demanded;
- (D)** A statement addressing the appropriateness, extent, and timing of disclosures pursuant to Fed. R. Civ. P. 26 that are not covered by the report(s) filed pursuant to Fed. R. Civ. P. 26(f);
- (E)** A list of discovery completed, discovery in progress, motions pending, and hearing dates;
- (F)** A statement addressing the appropriateness of any of the special procedures or other matters specified in Fed. R. Civ. P. 16(c) that are not covered by the joint report filed pursuant to Fed. R. Civ. P. 26(f);
- (G)** A statement identifying any related case, including pending cases as well as cases that have been adjudicated or have otherwise been terminated, in any state or federal court; and
- (H)** Additional matters at the option of counsel.

**(3) Attendance.** All parties receiving notice of the scheduling conference must attend and be prepared to discuss the items listed under paragraph (2) of this rule and the following:

- (A)** Service of process on parties not yet served;
- (B)** Jurisdiction and venue;
- (C)** Anticipated motions; including Daubert motions, and deadlines as to the filing and hearing of motions;
- (D)** Appropriateness and timing of motions for dismissal or for summary judgment under Fed. R. Civ. P. 12 or 56;
- (E)** Deadlines to join other parties and to amend pleading;
- (F)** Anticipated or remaining discovery, including discovery cutoff;

- (G)** The control and scheduling of discovery, including orders affecting disclosures and discovery pursuant to Fed. R. Civ. P. 26-37;
- (H)** Further proceedings, including setting dates for pretrial and trial;
- (I)** Appropriateness of special procedures, such as consolidation of actions for discovery or pretrial;
- (J)** Modification of the standard pretrial procedures specified by this rule on account of the relative simplicity or complexity of the action or proceeding;
- (K)** Prospects for settlement, including participation in the court's mediation program or any other alternative dispute resolution process; and
- (L)** Any other matters that may be conducive to the just, efficient, and economical determination of the action or proceeding, including any of the matters specified in Fed. R. Civ. P. 16(c).

## LBR 7017-1. Trial and Post-Trial Briefs

**(a) Format.** Trial and post-trial briefs shall comply with the format requirements of LBR 9004-1.

**(b) Length.** In computing the length limit, headings, footnotes, and quotations count toward the word limit of a brief, but the following items do not: case caption, table of contents, table of authorities, exhibits, declarations, certificates of counsel, signatures, and certificate of service. Only the pertinent portions on exhibits should be attached to a brief.

**(1) Principal Brief.** A party's principal brief must not exceed 30 pages. The length of a principal brief is acceptable if it contains a certificate that it contains no more than 13,000 words, or no more than 1,300 lines of text.

**(2) Reply Brief.** A party's reply brief must not exceed 15 pages. The length of a reply brief is acceptable if it contains a certificate that it contains no more than half the word or line limit specified in paragraph (1) of this rule.

**(3) Table of Contents; Table of Authorities.** Briefs exceeding 10 pages must include a table of contents and a table of authorities cited.

## LBR 7026-1. Conference of the Parties

- (a) **Conference Timing.** The conference of the parties required under Fed. R. Civ. P. 26(f) must be held not later than 21 days before the scheduling conference.
  
- (b) **Discovery Plan.** The parties must make a good faith attempt to agree to a discovery plan at the conference of the parties. The discovery plan should cover the items listed in **Local Form H52 - Report of the Parties' Planning Meeting**. The plaintiff is responsible for preparing a report outlining a proposed discovery plan. In lieu of filing a written report, the parties may report orally on their discovery plan at the scheduling conference.

## LBR 7026-2. Responses to Discovery Requests

- (a) Discovery requests served pursuant to Fed. R. Civ. P. 33, 34, and 36 shall be in a form providing sufficient space to respond following each request.
- (b) Responses to discovery requests pursuant to Fed. R. Civ. P. 33, 34, and 36 shall set forth the interrogatory or request in full before the response. Each objection shall be followed by a statement of the reasons therefor. Boilerplate and generalized objections are not permitted.
- (c) A motion to compel discovery shall set forth only the pertinent interrogatories, requests for production, or requests for admissions, and answers or objections.
- (d) When a claim of privilege is made in response to any discovery request pursuant to Fed. R. Civ. P. 33, 34, or 36, unless otherwise agreed to by the parties, the materials or information claimed to be privileged shall be identified with reasons stated for the particular privilege claimed. No generalized claim of privilege shall be allowed. An assertion of privilege or work product should, on a schedule agreed to by the parties or ordered by the court, contain the following for each document, communication, or piece of information withheld:
- (1) Date of the creation of the document;
  - (2) Author;
  - (3) Primary addressee(s) and the relationship of that person(s) to the client and/or author of the document;
  - (4) Secondary addressee(s) and the relationship of that person(s) to the client and/or author of the document;
  - (5) Type of document;
  - (6) Client (party asserting the privilege);
  - (7) Subject matter of the document or privileged communication;
  - (8) Basis for the legal claim of privilege, work product, or other objection to production;
- and
- (9) Document identifier (e.g., Bates number).
- (e) **Depositions - Completion of Discovery.** For the purpose of determining compliance with discovery deadlines, a deposition is completed when the examination of the witness is finished (even if the deposition has not yet been transcribed), and interrogatories, requests for production of documents and things, and requests for admissions are completed when the response thereto is due in accordance with the request and applicable rule.

## LBR 7030-1. Depositions; Original Transcripts

**(a) Original Document.** Counsel responsible for the preservation and storage of the original transcript, tape, or other means of preservation of any deposition must produce the original transcript, tape, or other means of preservation of such deposition upon request by the court or any party if needed for court proceedings.

**(b) Germane Portion.** Only the portion of a deposition that is directly germane to the matter under consideration by the court should be offered as an exhibit in support of a motion, objection, or response thereto.



## LBR 7037-1. Enforcement of Discovery Requirements; Sanctions

**(a) Conference Required.** The court will not entertain any motion pursuant to Fed. R. Civ. P. 26 through 37, including any request for expedited discovery assistance pursuant to subdivision (c), unless counsel have previously conferred, either in person or by telephone, concerning all disputed issues (including the requirement that discovery be proportional to the needs of the case), in a good faith effort to limit the disputed issues and, if possible, eliminate the necessity for a motion or expedited discovery assistance. Electronic or letter communications are not a substitute for the conference. The court may also direct that before moving for an order relating to discovery, the movant must request a status conference with the court.

**(b) Certificate of Compliance.** When filing any motion with respect to Fed. R. Civ. P. 26 through 37, or a letter brief in accordance with subdivision (c) of this rule, counsel for the movant shall certify compliance with this rule.

### **(c) Expedited Discovery Assistance**

**(1)** Counsel may seek resolution of disputed discovery issues expeditiously and economically. This expedited procedure is intended to afford a swift but full opportunity for the parties to present their positions through abbreviated, simultaneous briefing and, when appropriate, a conference. Counsel desiring such assistance shall contact opposing counsel to arrange a mutually agreeable deadline for the submission of letter briefs. Should counsel be unable to agree upon a deadline, counsel may contact the courtroom deputy who will assign a deadline for letter briefs. Counsel who obtains a deadline from the courtroom deputy shall notify opposing counsel of the assigned deadline.

**(2)** Letter briefs by all parties shall be filed and served on opposing counsel by the deadline. The letter brief shall contain all relevant information, including confirmation of the deadline for submission of letter briefs; dates of discovery cut-off and trial; and a discussion of the dispute. If a party opposes the use of this expedited procedure, such opposition should be included in the letter brief. Unless ordered by the court, the letter briefs shall be 5 pages or less, inclusive of all exhibits.

## LBR 7041-1. Dismissal of a Complaint Objecting to the Debtor's Discharge

**(a) Order Required.** An order is required for dismissal of a complaint objecting to the debtor's discharge, whether it is a voluntary dismissal by the plaintiff or upon the parties' stipulation or settlement agreement.

**(b) Notice.** Unless the court orders otherwise, notice of a plaintiff's request or the parties' stipulation or settlement agreement for dismissal of any claim objecting to discharge must be filed in both the adversary proceeding and the underlying bankruptcy case. Notice to the trustee, United States trustee, creditors, and other parties in interest is sufficient upon transmission of the CM/ECF notice of electronic filing. The notice must include the following information.

**(1) Statutory Basis Asserted in Objection to Discharge.** The notice must identify the adversary proceeding and briefly describe the provision relied on in the objection to discharge, e.g., "11 U.S.C. § 727(a)(4) - debtor knowingly and fraudulently made a false oath or account."

**(2) Disclosure of Consideration.** The notice must disclose any consideration, monetary or otherwise, received or to be received by the plaintiff in connection with dismissal of any claim objecting to discharge, as well as the source of the consideration. If there is no consideration, the notice must explicitly state that.

**(3) Opportunity to Object.** The notice must advise that absent an objection filed within 14 days after the date the notice is filed, the court may enter an order dismissing the objection to discharge without further notice or hearing.

## LBR 7054-1. Adversary Proceedings - Taxation of Costs

A party may seek a taxation of costs, other than attorney fees, by filing a proposed bill of costs that substantially conforms to Form 2360 – Bill of Costs. The other provisions of LR54.1 apply.

## LBR 7054-2. Adversary Proceedings and Contested Matters - Attorney Fees

**(a) Entitlement.** A party seeking an award of attorney's fees must file a motion for an order awarding attorney's fees and related non-taxable expenses.

**(b) Applicability of Local Rule 54.2 of the District Court.** Unless the court orders otherwise, LR 54.2 - Motion for Attorneys' Fees and Related Non-Taxable Expenses applies, except that (i) LR54.2(i) does not apply and (ii) LBR 9013-1(c) governs the time periods for scheduling a hearing on the motion and filing responses and reply memoranda.

## LBR 7055-1. Default

**(a) Request for Entry of Default.** A party seeking entry of default must file a request substantially conforming to the local form (**Request for Entry of Default and Declaration in Support**). The declaration must identify the applicable provision authorizing service under Bankruptcy Rule 7004 or Fed. R. Civ. P. 4 and, if served in a place not within any judicial district of the United States, the specific authority for service under the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents or other method of service.

**(b) Judgment for Plaintiff.** Unless the court orders otherwise, a plaintiff entitled to a judgment by default in an adversary proceeding, for a claim other than a sum certain pursuant to Fed. R. Civ. P. 55(b)(2), may obtain a judgment only by written motion and upon establishment of a prima facie case at a hearing, with notice of not less than 28 days to the defendant. The motion must be served on the defendant and, if represented by counsel, the defendant's attorney. Entry of default by the clerk must be made prior to or concurrently with the filing of the motion.

## LBR 7056-1. Summary Judgment

**(a) Motion Requirements.** A motion for summary judgment must be accompanied by a supporting memorandum and separate concise statement detailing each material fact as to which the moving party contends is undisputed and essential for the court's determination of the motion.

**(b) Focus of the Concise Statement.** The separate concise statement shall assert only the material facts that are necessary for the court to determine the issues presented in the motion. Each factual assertion shall be a single sentence, followed by a citation to a particular affidavit, deposition, or other document that supports the assertion. Documents referenced in the concise statement may be filed in their entirety only if a party concludes that the full context would be helpful to the court. Each citation shall particularly identify the page and portion of the page of the document referenced. The document referred to shall have relevant portions highlighted or otherwise emphasized. The parties may extract and highlight the relevant portions of each referenced document but shall ensure that enough of a document is attached to put the matter in context. If a party determines that an entire deposition transcript should be submitted, the party should consider whether a miniscript would be preferable to a full-size transcript. If an entire miniscript is submitted, the index of terms appearing in the transcript must be included, if it exists. When multiple pages from a single document are submitted, the pages shall be grouped in a single exhibit.

**(c) Length.** The concise statement in support of or in opposition to a motion for summary judgment shall not exceed 5 pages, unless it contains no more than 1,500 words. When a concise statement is submitted pursuant to the foregoing word limit, the number of words shall be computed in accordance with LBR 9013-2, and the concise statement shall include the certificate provided for in that rule.

**(d) Format.** A separate concise statement may utilize a single-space format for the presentation of the facts and evidentiary support only when set out in parallel columns, but a column format is not required.

**(e) Concise Statements: Opposition and Reply.** Any party who opposes the motion shall file and serve with the opposing documents a separate document containing a single concise statement that admits or disputes each fact set forth in the movant's concise statement. The opposing party shall, if appropriate, admit in part and deny in part a fact asserted by the movant, stating specifically what is admitted and what is denied. The opposing party shall also assert, in a separate section of its concise statement, any additional facts the party believes the

court should consider, set forth in the same manner as in the movant's concise statement, as described in subdivision (b) of this rule. If such additional facts are advanced in the opposing party's concise statement, the movant shall file, together with its reply brief, a further concise statement that responds only to those additional facts. The movant should proceed in the same manner if the opposing party offers such additional facts in support of a counter-motion for summary judgment under LBR 9013-1.

**(f) Scope of Judicial Review.** When resolving motions for summary judgment, the court shall have no independent duty to search and consider any part of the court record not otherwise referenced in the separate concise statements of the parties. Further, the court shall have no independent duty to review exhibits in their entirety, but rather will review only those portions of the exhibits specifically identified in the concise statements.

**(g) Admission of Material Facts.** For purposes of a motion for summary judgment, material facts set forth in the moving party's concise statement will be deemed admitted unless controverted by a separate concise statement of the opposing party.

**(h) Declarations to be Attached to Concise Statement.** Affidavits and Declarations. Affidavits or declarations setting forth facts and/or authenticating exhibits, as well as exhibits themselves, shall only be attached to the concise statement. Supplemental affidavits and declarations may only be submitted with leave of court.

**(i) Summary Judgment to Nonmoving Party.** If a party moves for summary judgment and the record establishes as a matter of law that another party is entitled to summary judgment against the movant, the court, in the court's discretion, may enter summary judgment against the movant after providing that party with oral or written notice and an opportunity to be heard.

**(j) Filing Deadlines.** A motion for summary judgment must be filed so as to be heard early enough so it is heard, after regular notice, not later than 28 days before the trial date. Deadlines for filing opposition statements and reply memoranda are governed by LBR 9013-1(c).

## LBR 7067-1. Registry Fund

### (a) Procedure for Deposit into Court's Registry Fund

**(1) Motion.** A motion must include (A) the amount of money to be deposited, (B) the name and address of each entity that may have a claim to the money, and (C) the name and address of any attorney for such entity.

**(2) Order.** No money shall be sent to the Court for deposit in the Court's registry prior to entry of an authorizing court order.

**(3) Deposit.** Upon entry of the order, the depositor must deliver a money order, cashier's check, or certified check payable to "Clerk, U. S. Bankruptcy Court" in the amount of the deposit. All monies ordered to be paid to the Court in any pending or adjudicated case shall be deposited with the Treasurer of the United States in the name and to the credit of this Court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

### (b) Investment of Registry Funds

**(1)** Funds on deposit with the Court are to be placed in the Court Registry Investment System ("CRIS"), an interest-bearing account administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045.

**(2)** Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a "Disputed Ownership Fund" (DOF), a taxable entity that requires tax administration. Interpleader funds must be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements.

**(3)** The Director of the Administrative Office of the United States Courts is designated as custodian for CRIS. The Director or the Director's designee shall perform the duties of custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the Court.

**(4)** Money from each case deposited in the CRIS shall be "pooled" together with those on deposit with Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at Treasury, in an account in the name and to the credit of the Director of Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principals of the CRIS Investment Policy as approved by the Registry Monitoring Group.

**(5)** An account for each case will be established in the CRIS Liquidity Fund titled in the name of the case giving rise to the investment in the fund. Income generated from fund investments will be distributed to each case based on the ratio of each account's principal and earnings to the aggregate principal and income total in the fund after the CRIS fee has been applied. Reports showing the interest earned and the principal amounts contributed in each case



will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

**(6)** For each interpleader case, an account shall be established in the CRIS Disputed Ownership Fund, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by court order.

**(c) Deductions of Fees**

**(1)** The custodian is authorized and directed by this Rule to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. According to the Court's Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.

**(2)** The custodian is authorized and directed by this Rule to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. According to the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases. The custodian is further authorized and directed by this Rule to withhold and pay federal taxes due on behalf of the DOF.

**(d) Procedure for Withdrawing Deposited Funds**

**(1)** Monies will be disbursed by the clerk from the registry fund only under an order that includes the following:

**(A)** The name and address of each entity receiving the funds, and the name and address of any attorney for the entity.

**(B)** With respect to each entity who is to receive a disbursement, the amount of principal and the percentage of any accrued interest to be paid.

**(C)** The total amount of funds to be withdrawn if less than the total amount in the account.

**(2) Payment by Clerk.** After entry of an order authorizing disbursement of registry fund monies, counsel for the person(s) receiving any accrued interest must complete the AO 213, Vendor Information/TIN Certification form, or alternative required form, and forward the form to the court's financial administrator. After expiration of the time to file a notice of appeal,

deposited funds will be disbursed by check payable to each entity entitled to the funds in care of any attorney of record for the payee.

## LBR 7067-2. Bonds

**(a) Bond or Security.** The court, on motion or of its own initiative, may order any party to file an original bond or additional security for costs in such an amount and so conditioned as the court by its order may designate.

**(b) Qualifications of Surety.** Subject to approval of the court and in compliance with the policy of the Administrative Office of the United States Courts (Guide to Judiciary Policy), bonds must be supported by acceptable corporate sureties, individual sureties, assets acceptable as security, or irrevocable letters of credit.

**(1) Acceptable Corporate Sureties.** Any corporate surety offered for a bond furnished to the judiciary must appear on the list contained in Treasury Department Circular 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies).

**(2) Individual Sureties.** On a case by case basis, the court may accept individual sureties.

**(3) Assets Acceptable as Security.** The only assets acceptable in place of a surety bond are:

**(A)** United States bonds or notes with a maturity date less than 5 years from the date of the contract, together with an agreement authorizing collection or sale in the event of default. The par value of the bonds or notes must be at least equal to the penal amount of the bond.

**(B)** A certified check, cashier's check, bank draft, postal money order, or currency. The deposit must be at least equal to the penal amount of the surety bond and payable to "Clerk, U.S. Bankruptcy Court."

**(C)** A bond secured by an Irrevocable Letter of Credit (ILC) in an amount equal to the penal sum required to be secured. A separate ILC is required for each bond.