

# Local Bankruptcy Rules United States Bankruptcy Court District of Massachusetts



## March 31, 2003

Fifth Edition

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

**LOCAL RULES**

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

**LOCAL RULES AND FORMS**

**RULE 1001-1. TITLE**

These Local Bankruptcy Rules, promulgated under Fed. R. Bankr. P. 9029, shall be known as the Local Bankruptcy Rules of the United States Bankruptcy Court for the District of Massachusetts, a unit of the United States District Court for the District of Massachusetts, and shall be referred to in abbreviation as MLBR. These rules shall take effect on March 1, 2003 with respect to pending cases and those filed thereafter, and shall govern all proceedings in bankruptcy cases insofar as is just and practicable.

**RULE 1002-1. CASE COMMENCEMENT**

(a) Form

The original petition and the required number of copies commencing a case filed with the Clerk of this Court shall be collated in proper sequence and stapled.

(b) Number of Copies

- (1) In a chapter 7 or 13 case, an original and three (3) copies of the petition commencing the case and an original and three (3) copies of the list, schedules and statements required by Fed. R. Bankr. P. 1007 shall be filed with the Clerk.
- (2) In a chapter 9, 11 or 12 case, an original and six (6) copies of a petition commencing a case and an original and six (6) copies of the list, schedules and statements required by Fed. R. Bankr. P. 1007 shall be filed with the Clerk.

**RULE 1006-1. FILING FEES**

Applicable filing fees are set forth in Appendix 3.

## **RULE 1006-2. FEES-INSTALLMENT PAYMENTS**

The Court, upon motion of an individual debtor or joint debtors, may permit payment of the case filing fee in installments. Such debtor(s) shall pay \$40.00 at the time of filing, and, except for cause shown upon motion of the debtor, the balance shall be paid in three (3) equal payments in intervals of not greater than thirty (30) days. Failure to make payments shall result in dismissal of the case. No discharge shall enter until all filing fees are paid in full.

## **RULE 1007-1. LISTS, SCHEDULES AND STATEMENTS**

### **(a) Separate List of Creditors**

Each petition shall be accompanied by an original matrix of all creditors and their last known complete addresses and shall conform to the specifications of MLBR Official Local Form 1. Any creditors subsequently added to the matrix shall be included in an amended matrix filed in compliance with MLBR 1009-1 which amended matrix shall be served simultaneously on the United States trustee. A matrix not filed with the original petition shall be filed no later than three (3) court days from the date of the filing of the petition. Failure to timely comply with this requirement shall result in dismissal of the case without further notice.

### **(b) Answer "None" to be Stated**

Each item in the schedules and statement of affairs shall be completed. Items for which no other entry can be made shall be completed by the entry "none" or "not applicable," whichever response is appropriate.

### **(c) Corporate, Partnership or Trust Petitions**

- (1) A petition by a corporation shall be signed or verified by an officer or agent of the corporation and shall be accompanied by a copy of the resolution of the board of directors or other evidence of the officer's or agent's authority to file the petition on behalf of the corporation.
- (2) A petition by a partnership or a trust shall be signed or verified by a general partner, trustee or appropriate agent and shall be accompanied by evidence of the signing party's authority to file the petition.
- (3) A petition filed on behalf of a corporation, partnership or trust shall indicate

that the debtor is represented by counsel and shall state the attorney's name, address and telephone number.

- (4) Failure to comply with this rule shall result in dismissal of the case within seven (7) days after the Court issues a notice of defective filing.

#### **RULE 1009-1. AMENDMENTS**

A party filing a document amending a voluntary petition, list, schedule, statement of financial affairs, or statement of executory contracts shall do so by notice as set forth in Fed. R. Bankr. P. 1009(a), except with respect to the following: 1) amendments to the debtor's schedule of liabilities, adding a creditor after the deadline for filing complaints under 11 U.S.C. §§ 523 or 727; and 2) amendments to the schedule of exemptions after the deadline for objecting to the exemptions. If either of these exceptions apply, the debtor shall file a motion with the Court for approval of the amendment. A copy of the amended document shall be attached to the notice or motion and clearly state in the caption that it is an amendment. An amendment to a matrix which adds creditors shall contain the names and addresses of all added creditors in compliance with MLBR Official Local Form 1.

#### **RULE 2002-1. NOTICE TO PARTIES**

- (a) Unless the Court orders otherwise, the moving party shall give notice to all parties entitled to notice under the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, MLBR, or an order of the Court, of the following events:
  - (1) the proposed use, sale or lease of property of the estate;
  - (2) a proposed compromise or settlement;
  - (3) a motion for conversion or dismissal;
  - (4) objections to and the hearing on the adequacy of a disclosure statement;
  - (5) the order approving a disclosure statement;
  - (6) a proposed modification of a plan in a chapter 9, 11, or 12 case;
  - (7) applications for compensation in a chapter 9, 11, or 12 case or a chapter

13 case, except as provided in the chapter 13 rules at paragraph 13-7(b);

- (8) the time for filing claims in a chapter 9 or 11 case;
  - (9) the time for filing objections to and the hearing on confirmation of a chapter 9, 11 or 12 plan; and
  - (10) the order confirming a plan in a chapter 9, 11, or 12 case.
- (b) Unless the Court orders otherwise, motions to limit notice may be served only upon parties who have filed appearances and requested service of all notices and pleadings, any trustee and trustee's counsel, the debtor and debtor's counsel, the twenty (20) largest creditors, the United States trustee and any creditors' committee and its counsel.

**RULE 2002-2. NOTICES TO THE UNITED STATES OF AMERICA AND THE COMMONWEALTH OF MASSACHUSETTS**

The addresses for service upon federal, and state governmental agencies are set forth in MLBR Appendix 4.

**RULE 2002-4. ADDRESSES**

- (a) The debtor or debtor's counsel must notify the Clerk, all creditors, parties in interest and all attorneys who have filed appearances in the case or any proceeding of a mailing address change for the debtor or debtor's counsel within ten (10) days of such change.
- (b) The Clerk shall direct all returned notices of a § 341(a) meeting of creditors and discharge orders to the debtor's attorney or the debtor, if pro se, to enable that party to locate the correct address and to forward the notice or order to that address. The responsible party must file a certificate of service of the new mailing with the Clerk and must request, in writing, that the Clerk change the creditor's address on the matrix.
- (c) The debtor or debtor's counsel shall maintain, be responsible for the accuracy of, and remit to any party immediately upon request, the master mailing matrix and any amendments to it. The master mailing matrix shall include parties who have filed appearances and requested service of all notices and pleadings, any trustee

and trustee's counsel, the debtor and debtor's counsel, all creditors, the United States trustee and any creditors' committee and its counsel. When serving notices, the Clerk and any party may rely exclusively on the master mailing matrix, or amended master mailing matrix.

#### **RULE 2002-5.       CONTENT OF NOTICES OF SALE**

- (a) Subject to the requirements of Fed. R. Bankr. P. 6004 and MLBR 6004-1, a notice of proposed private sale of property shall: conform substantially to Official Local Form 2A suited to the particular circumstances of the case; include the name and address of the purchaser; the consideration for the purchase; the time and place of the proposed sale; the terms and conditions of the proposed sale; the time fixed for filing higher offers and/or objections to the proposed sale; the hearing date fixed by the Court; a general description of the property to be sold; an itemized list of the asset or assets; the relationship, if any, of the buyer and the seller; a statement as to the fair market value of the property to be sold; the opinion of any professional appraiser or broker as to the value of the property to be sold, if available; a statement of the basis for the seller's opinion that the purchase price is reasonable; and a statement as to the marketing efforts undertaken by the seller.
- (b) Unless the Court orders otherwise, the estate representative shall give not less than twenty (20) days written notice by mail to all creditors and interested parties of any sale or use of estate assets out of the ordinary course of business. The notice shall state that any objection, higher offer, or request for hearing must be filed and served within the time established by the Court, which time shall be conspicuously stated in the notice.

#### **RULE 2014-1.       APPLICATION TO EMPLOY PROFESSIONAL PERSONS**

- (a) Application and Statement

An application of a debtor (other than a chapter 7 debtor), debtor in possession, estate representative, or committee to employ any professional person, including an attorney, accountant, appraiser, broker, auctioneer, consultant or agent, shall include all of the information required to be provided by Fed. R. Bankr. P. 2014(a). In addition, in the statement accompanying the application, the person to be employed (hereinafter the "professional") shall make the following representations and disclosures under penalty of perjury in accordance with

section (c):

- (1) Neither I nor any member of my firm holds or represents any interest adverse to the estate of the above-named debtor.
- (2) My and my firm's connections with the debtor, any creditor, or other party in interest, their respective attorneys and accountants are as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

I am and each member of my firm is a "disinterested person" as that term is defined in 11 U.S.C. § 101(14).

- (3) I have not agreed to share with any person (except members of my firm) the compensation to be paid for the services rendered in this case, except as follows:

\_\_\_\_\_  
\_\_\_\_\_.

- (4) I have received a retainer in this case in the amount of \$\_\_\_\_\_, which sum, upon information and belief, was generated by the debtor from:

\_\_\_\_\_.

- (5) I shall amend this statement immediately upon my learning that (A) any of the within representations are incorrect or (B) there is any change of circumstance relating thereto.

- (6) I have reviewed the provisions of MLBR 2016-1.

(b) Clarifying Terms

- (1) Connections and Relationships

For the purposes of subsection (a)(2) and 11 U.S.C. § 101(14), "connections" and "relationships" shall include, without limitation:

- (A) the professional's representation of the debtor or any affiliate of the debtor as that term is defined in 11 U.S.C. § 101(2), or any insider of the debtor as that term is defined in 11 U.S.C. § 101(31), at any time;

- (B) the professional's representation of a creditor against the debtor, or any insider or affiliate of the debtor, at any time;
- (C) the professional's representation of a creditor on a regular basis or in connection with a substantial matter;
- (D) the professional's representation of or by, or employment of or by, another authorized professional specifically in connection with this case or on a regular basis or in connection with a substantial matter in another case; and
- (E) a family affiliation to the third degree of consanguinity or marital relationship between the professional or the member(s) of the professional's firm who will actually render services and any party in interest (or officer, director, or shareholder of such party) or other professional authorized to be employed in the case.

It shall be the duty of the professional to make a preliminary inquiry as to such connections and relationships among the members and employees of the professional's firm.

(2) Source of Funds

For the purposes of subsection (a)(4), the professional should disclose whether the funds were generated by the debtor from operations, salary, wages, other income, a loan or capital contribution. If the source is a loan or capital contribution and such loan (other than an advance on a continuing line of credit) or capital contribution was made to the debtor within ninety (90) days prior to the filing of the petition, the identity of the lender or investor/stockholder and the terms of repayment shall be disclosed, as well as any claims by and between the debtor and the lender or investor/stockholder.

(c) Form of Statement

The statement accompanying the application to employ a professional person shall take the form of an affidavit dated and signed under penalty of perjury by the person to be employed, and above such signature the affiant shall include a sworn declaration as provided in 28 U.S.C. § 1746, which states: "I declare (or certify, or verify, or state) under penalty of perjury that the foregoing is true and correct."

(d) Effective Date

If a court approves an application for the employment of a professional person, such approval shall be deemed effective as of the date of the filing of the application. However, if such application is filed within fourteen (14) days from the later of case commencement or the date the professional commenced rendering services, court approval shall be deemed effective commencing the date that services were first rendered. Approval shall not be otherwise retroactive absent extraordinary circumstances.

**RULE 2016-1. APPLICATION FOR COMPENSATION**

(a) Any professional seeking interim or final compensation for services and reimbursement of expenses under 11 U.S.C. §§ 330, 331, 503(b)(2), 503(b)(4) or 506(b) shall file an application for compensation and reimbursement. The application shall conform generally to Fed. R. Bankr. P. 2016.

(1) The application and any attachments shall:

- (A) be legible and understandable;
- (B) identify the time period or periods during which services were rendered;
- (C) describe the specific services performed each day by each person with the time broken down into units of tenths of one hour devoted to such services;
- (D) include a copy of any contract or agreement reciting the terms and conditions of employment and compensation;
- (E) include a copy of the order authorizing the employment;
- (F) include the date and amount of any retainer, partial payment or prior interim allowances;
- (G) include a brief narrative description of services performed and a summary of hours by professionals and other personnel;
- (H) if the trustee is also serving as his or her own attorney, the trustee's

attorney's application must contain a certification that no compensation has been or will be sought for services as an attorney which are properly trustee services; and

- (l) include a brief biography of each person included in the fee application, stating his or her background and experience.
- (2) All applications by professionals shall include a summary chart, which clearly sets forth in columns:
- (A) the full names of the attorneys, paralegals and clerks performing services;
  - (B) the initials used for each person;
  - (C) the hourly rate charged by each person and, if there is a change in the hourly rate for any such person during the covered period, then that person's name shall be listed as many times as there are changes in the hourly rate and each entry shall show the number of hours at each rate and the date each change became effective; and
  - (D) the total amount of fees for each person and a column showing a grand total figure (See MLBR Appendix 6 as an example).
  - (E) the total amount of each type of out-of-pocket expense for which reimbursement is sought, which amounts, subject to subsection (F), shall not exceed the actual cost to the applicant.
  - (F) In lieu of calculating the actual cost of the expenses set forth below, the applicant may request the rates of reimbursement set forth in MLBR Appendix 2 for:
    - (l) copies;
    - (ii) incoming telecopier transmissions; and
    - (iii) auto mileage.
- (b) Any application for compensation by co-counsel shall specify the separate services rendered by each counsel and contain a certification that no compensation is sought for duplicate services.
- (c) If an application for compensation and reimbursement by a chapter 7, 11 or 12

trustee exceeds \$5,000.00, the trustee shall state:

- (1) the total amount received in the estate;
  - (2) the amount of money disbursed and to be disbursed by the trustee to parties in interest (excluding the debtor) and a calculation of the maximum fee allowable under 11 U.S.C. § 326;
  - (3) a brief narrative description of services performed;
  - (4) if the payment sought is interim compensation, why the payment of interim compensation is reasonable and appropriate;
  - (5) the dividend, expressed as a percentage of funds to be distributed to creditors, if the requested compensation and other requested administrative expenses are allowed in the amounts requested. If a trustee has served both as a chapter 7 and a chapter 11 trustee, separate itemizations must be provided for each period. The amount of compensation shall be stated as a dollar amount, regardless of the calculation of the maximum compensation allowable under 11 U.S.C. § 326(a).
- (d) All applications which seek more than \$35,000.00 in compensation, or are otherwise very lengthy, must be divided into narrative sections. (See MLBR Appendix 7 as an example). Each narrative section must represent a task, must describe the task and the benefit to the estate, and must identify the work done by each professional. There shall be attached to the narrative a specific description of services performed under such task each day by each person and the time devoted to such services on that day by each person. The end of each narrative section must include a summary chart that conforms to the requirements of section (a)(2)(A)-(F) of this rule.

#### **RULE 2082-1. CONFIRMATION OF CHAPTER 12 PLANS**

- (a) The Clerk, in conjunction with issuing a notice of the initial meeting of creditors, shall issue a notice of the deadline for the filing of claims as established by Fed. R. Bankr. P. 3002.
- (b) The Clerk shall schedule the confirmation hearing and establish a plan objection deadline upon the filing of the debtor's plan and notify the debtor of these dates.

The debtor shall give at least fifteen (15) days notice of the hearing and the deadline for filing objections and shall serve a copy of the plan upon all creditors, equity security holders, and the chapter 12 trustee, and the United States trustee. The debtor shall file a certificate of service with the Court indicating that service has been made.

#### **RULE 2090-2. DISCIPLINARY PROCEEDINGS**

- (a) An attorney who appears for any purpose in any case or proceeding submits himself or herself to the Court's disciplinary jurisdiction and shall be held to the standards of professional conduct set forth in District Court Local Rule 83.6.
- (b) In any matter in which a bankruptcy judge has reasonable cause to believe that an attorney has committed a violation of any canon or ethical rule, the bankruptcy judge may refer the attorney for disciplinary proceedings to the District Court pursuant to District Court Local Rule 83.6 and to any state disciplinary authority. In connection with any such referral, the bankruptcy judge may recommend expedited interim action by the District Court and the state disciplinary authority if in the opinion of the bankruptcy judge such action is necessary to avoid an imminent risk of harm to the public.
- (c) A bankruptcy judge may impose any other sanction the judge deems necessary under the circumstances in accordance with the relevant statutes, rules of this Court and the District Court, or applicable law.

#### **RULE 2091-1. WITHDRAWAL OF APPEARANCE**

- (a) An attorney may withdraw from a case or proceeding without leave of the Court by serving a notice of withdrawal on the client and all other parties in interest and filing the notice, provided that:
  - (1) such notice is accompanied by the filing of a notice of appearance of successor counsel;
  - (2) there are no motions pending before the Court; and
  - (3) no trial date has been set.

Unless these conditions are met, an attorney may withdraw from a case or

proceeding only with leave of the Court.

- (b) An attorney granted leave to withdraw shall immediately serve on the client and all other parties in interest the order permitting withdrawal. If the client is a corporation, the order shall contain a provision directing that new counsel file a notice of appearance within twenty (20) days from the date of the order or such shorter period as the Court may direct. If a party who has been served with notice of an attorney's withdrawal fails to appear in the case or proceeding either through a newly appointed attorney or, if such party is an individual, in person, within the period prescribed, such failure shall be grounds for entry of a default judgment, dismissal or other appropriate action by the Court.

#### **RULE 3001-1. PROOFS OF CLAIM IN NO ASSET CASES**

In any case in which creditors have been advised that there are insufficient assets to pay a dividend, and the trustee, in accordance with Fed. R. Bankr. P. 3002(a)(5), subsequently notifies the Court that payment of a dividend is anticipated, the Clerk shall issue a bar date for the filing of claims and a notice that creditors who previously filed proofs of claims need not file claims again in order to receive a distribution.

#### **RULE 3007-1. OBJECTIONS TO CLAIMS**

- (a) A party who files an objection to the allowance of any proof of claim shall state in the objection, with particularity, the factual and legal grounds for the objection, and shall make a recommendation to the Court as to whether the claim should be disallowed or allowed in an amount or with a priority other than as filed. A party may file multiple objections to claims in one pleading. The provisions of this rule shall apply to single as well as multiple objections to claims.
- (b) The procedures for motion practice and contested matters set forth in Fed. R. Bank. P. 9013 and 9014 and MLBR 9013-1 shall govern objections to claims. Upon the filing of an objection to a proof of claim, the Clerk shall assign a deadline for a claimant to file a response to the objection and a hearing date. The party objecting to the claim shall serve upon the claimant and any other party entitled to notice a copy of the objection and the notice of response deadline and hearing date, and shall file a certificate of service with respect to the notice.
- (c) If a claimant contests an objection to claim, the claimant shall file with the Clerk a written response to the objection, which response shall state with particularity

why the proof of claim should be allowed, shall contain any documentation in support of allowance of the proof of claim, and shall state why the objection to the proof of claim should be overruled. Any response to an objection to claim shall be served on the party objecting to the claim and any other party entitled to notice of the response. A claimant who does not file a timely response to a properly served objection to claim will be deemed to have agreed that the objection to claim may be sustained. The Court, in its discretion, may cancel the hearing on any properly served objection to claim to which a timely response has not been filed and may sustain the objection to claim without further notice or hearing.

- (d) In the event of one or more timely responses to objections to claims, within ten (10) days after the deadline for responses, and at least two (2) days prior to the hearing on objections to claims, the party filing the objection(s) to claims shall file a "Report and Hearing Agenda", setting forth 1) a list of the objections to claims to which no timely responses were filed and the objecting party's recommendations with respect to those claims; 2) a report on the settlement of any objections to claims; 3) the status of any objection to claim to which a timely response was filed and which remains unresolved; 4) whether the objection is likely to be resolved; and 5) the objecting party's recommendation for further proceedings on the objection to claim. If a creditor timely files a response to an objection to claim, the initial hearing on the objection shall be a preliminary nonevidentiary hearing, at which the parties shall appear and be prepared to discuss the need for an evidentiary hearing, discovery, scheduling and settlement.
- (e) Within seven (7) days after the Court's action on any objection to claim, the objecting party shall submit a proposed order on the objections to claims.

#### **RULE 3011-1. PROCEDURE FOLLOWING FINAL DISTRIBUTION**

- (a) One hundred and fifty (150) days after final distribution in a chapter 7 or chapter 13 case, the trustee shall forward to the Clerk:
  - (1) a list of names and addresses of persons whose checks were not negotiated and the amounts to which they are entitled; and
  - (2) a check payable to the Clerk in the full amount of all outstanding unpaid checks.
- (b) In chapter 7 cases, the trustee shall close out the estate's bank account(s) relating

to the case and file with the Clerk a copy of the final bank statement(s) indicating that the bank account(s) has (have) been closed with a zero (0) balance. In chapter 13 cases, the chapter 13 trustee shall file with the Clerk a statement indicating the amount of monies distributed to creditors, the amount of the trustee's commission, the amount of monies being turned over to the Clerk under section (a), and a representation that there is a zero (0) balance in the debtor(s)' account in the records of the chapter 13 trustee.

- (c) The trustee shall retain custody of all of the estate's cancelled checks and bank statements for no less than two (2) years from the date the case is closed.
- (d) Any check issued by a trustee shall contain a legend stating that the check will not be paid more than ninety (90) days after it is issued.
- (e) Prior to the closing of the case, the trustee shall file with the Clerk the Trustee's Final Distribution Report, in such form as may be approved by the United States trustee.

**RULE 3015-1. CHAPTER 13 CASES**

The chapter 13 rules attached hereto as MLBR Appendix 1 are adopted and incorporated herein by reference.

**RULE 3017-1. APPROVAL OF DISCLOSURE STATEMENTS IN CHAPTER 11 CASES**

- (a) Objections and Hearing on Approval

Notice of the time fixed for filing objections and of the hearing to consider final approval of the disclosure statement shall be given in accordance with Fed. R. Bankr. P. 2002(b). Upon motion and for cause shown, the Court may issue an order combining the hearing on the approval of the disclosure statement with the notice of the hearing on confirmation of the plan.

- (b) Prior to filing an objection to a disclosure statement, counsel to the party who intends to object to the adequacy of the disclosure statement shall contact counsel to the plan proponent and confer by telephone or in person in a good faith effort to narrow areas of disagreement.

- (c) An objection to the disclosure statement shall be filed and served on the debtor, the United States trustee, the plan proponent, any chapter 11 trustee, any examiner, all members of any committee appointed under the Bankruptcy Code and its counsel and any other entity that has requested service of pleadings in the case or which has been designated by the Court. Any objection to the adequacy of a disclosure statement shall contain a certificate stating that the conference required by section (b) was held, the date and time of the conference and the names of the participating parties, or a statement detailing the reasons why the conference was not held. The Court may overrule without a hearing objections that are not accompanied by the conference certificate.

**RULE 3017-2. FILING OF PLAN AND DISCLOSURE STATEMENT IN SMALL BUSINESS CHAPTER 11 REORGANIZATION CASES**

- (a) Election to be Considered a Small Business in a Chapter 11 Case

In a chapter 11 case, a debtor that is a small business may elect to be considered a small business within the meaning of 11 U.S.C. § 1121(e) by filing a written statement of election no later than sixty (60) days after the date of the order for relief or at such later date as the Court, for cause, may fix. If the debtor seeks to extend the time period within which it may make the election, the debtor shall file an appropriate motion with the Court before the expiration of the election time period.

- (b) Approval of Disclosure Statement to Chapter 11 Plan in Small Business Case

- (1) Conditional Approval

If the debtor is a small business and has made a timely election to be considered a small business in a chapter 11 case, the Court may, on application of the debtor, conditionally approve a disclosure statement filed in accordance with Fed. R. Bankr. P. 3016. On or before conditional approval of the disclosure statement, the Court shall:

- (A) fix a time within which the holders of claims and interests may accept or reject the plan;
- (B) fix a time for filing objections to the disclosure statement;
- (C) fix a date for the hearing on final approval of the disclosure

statement to be held if a timely objection is filed; and

(D) fix a date for the hearing on confirmation.

(2) Application of Fed. R. Bankr. P. 3017

If the disclosure statement is conditionally approved, Fed. R. Bankr. P. 3017(a), (b), (c), and (e) shall not apply. Conditional approval of the disclosure statement is considered approval of the disclosure statement for the purpose of applying Fed. R. Bankr. P. 3017(d).

## **RULE 3022-1. CLOSING CHAPTER 11 CASES**

(a) Definitions

For purposes of this rule, 11 U.S.C. § 350 and Fed. R. Bankr. P. 3022, a chapter 11 case is "fully administered" unless a matter is pending sixty (60) days following the entry of a final order confirming a plan of reorganization.

(b) Motion for Final Decree

Counsel for the plan proponent shall prepare and file a motion for final decree closing the chapter 11 case within sixty (60) days of the date on which it is fully administered. Preparation and filing of the motion for final decree shall be a continuing post-confirmation duty of counsel to the plan proponent.

(c) Form of Motion for Final Decree

The motion for final decree shall contain the following statements made under oath by an individual with personal knowledge:

- (1) that the plan has been substantially consummated in accordance with 11 U.S.C. § 1101(2) and the provisions of the plan and the confirmation order; that any subsequent orders of the Court have been complied with; and that the case may be closed in accordance with Fed. R. Bankr. P. 3022;
- (2) that the debtor, trustee or agent has paid all administrative expenses, including court-authorized professional compensation and costs (unless otherwise agreed in writing by the parties or unless otherwise provided for by the confirmed plan), as evidenced by an attached Exhibit "A" listing the

names, addresses and amounts paid to each of the recipients;

- (3) that the debtor, trustee or agent has commenced making distributions prescribed by the plan, as evidenced by an attached Exhibit "B" listing the names, addresses and amounts paid to each of the recipients;
- (4) that all remaining distributions prescribed by the plan shall be made in accordance with an attached Exhibit "C" listing the names, addresses and amounts to be paid to each of the recipients; and
- (5) if applicable, that distributions have not been made to recipients set forth on an attached Exhibit "D" listing the names, addresses and amounts tendered but returned and the reasons why payments have not been made, despite reasonable attempts.

(d) Interim Report on Administration Progress

If counsel for the plan proponent cannot file a motion for final decree on or before sixty (60) days after the entry of an order confirming the plan, counsel shall prepare and file an interim report on administration progress, describing the actions taken to consummate the plan and fully administer and close the case. The report shall contain detailed accounts, under subsections (c) (2), (3), and (4), of all amounts paid under the plan, if any, since the entry of the confirmation order. The Court, in its discretion, may direct the filing of additional reports and/or issue an order setting forth a schedule of future reporting.

(e) Service of Motion for Final Decree and Interim Report on Administration Progress

Counsel for the plan proponent shall serve copies of any motion for a final decree or interim report on administration progress, together with all supporting documentation, on any committee appointed by the United States trustee, counsel to any committee, and any party who filed an appearance in the case and requested service of all notices and pleadings, the United States trustee and any other parties as the Court may direct.

(f) Objections to Motion for Final Decree

Any party in interest, including the United States trustee, may object to any motion for final decree or interim report on administration progress.

(g) Hearings

The Court, in its discretion, may schedule a hearing on any motion for final decree or interim report on administration progress or any objection thereto.

(h) Entry of Final Decree

The Court may enter a final decree closing the case with or without a hearing.

(i) Reopening of Case

Nothing in this rule shall be interpreted as limiting the Court's ability to reopen a case pursuant to 11 U.S.C. § 350 and Fed. R. Bankr. P. 5010.

**RULE 4001-1. MOTIONS FOR RELIEF FROM STAY; SUBMISSION OF MOTIONS AND OPPOSITIONS TO MOTIONS**

(a) A party seeking relief from the automatic stay provided by 11 U.S.C. § 362(a) shall file, in accordance with Fed. R. Bankr. P. 9014, a motion and a proposed order.

(b) If the motion contains a request for authority to foreclose pursuant to a mortgage or security interest, the movant shall provide the following information:

(1) If the movant seeks relief for cause pursuant to 11 U.S.C. § 362(d)(1), then the cause shall be specifically stated in the motion.

(2) If the movant seeks relief with respect to a stay of an act against property pursuant to 11 U.S.C. § 362(d)(1) or (d)(2), then the motion shall state:

(A) the amount and priority of the debt alleged to be owed to the movant;

(B) the identification, amount, and priority of each other encumbrance affecting the property, including real estate taxes and other municipal charges;

(C) the total of the amounts set forth in subsections (a) and (b);

(D) the fair market value and liquidation value of the collateral, with any available appraisal(s) attached; and

(E) either that (I) there is no other collateral securing the obligation, or

(ii) there is other collateral securing the obligation, indicating the identity, value and valuation method and attaching any available appraisal(s).

- (3) If the movant seeks relief from stay pursuant to 11 U.S.C. § 362(d)(3), the motion shall state:
- (A) whether a plan of reorganization has been filed in the case; and
  - (B) whether the debtor has commenced monthly payments to creditors with interests in the real estate pursuant to 11 U.S.C. § 363(d)(3)(B).
- (c) A party opposing a motion for relief from the automatic stay must file an opposition to the motion within ten (10) days, inclusive of the three (3) day mailing period provided in Fed. R. Bankr. P. 9006(f), after service of the motion. The opponent shall either admit, deny or state that the opponent has insufficient knowledge to admit or deny each and every allegation of the motion, shall state specifically why the motion should not be granted, and shall state the terms of any offer of adequate protection made by the debtor or trustee. If the value alleged by the movant is disputed, any appraisal available to the opponent shall be attached to the opposition. If the motion is scheduled for an expedited hearing before the expiration of the ten (10) day period, then the opposition shall be filed before the expedited hearing.
- (d) Documents not filed with the motion or opposition to the motion, whether in the form of a reply memorandum or otherwise, may be submitted only by leave of Court.
- (e) In the absence of a timely filed opposition and upon evidence of proper service, the Court, without a hearing, may allow or deny the motion after the expiration of the ten (10) day opposition period. The Court may deny a motion for relief from stay without a hearing if the moving party fails to comply with section (b).
- (f) All documents filed pursuant to this rule shall be served in accordance with Fed. R. Bankr. P. 4001(a) and 9006(d)-(f) upon all parties who have filed appearances and requested service of all notices and pleadings, and on any other party that the Court may designate. If the motion seeks relief with respect to an act against property, the motion shall also be served on all entities that claim an interest in the property, including all co-owners, lienholders and taxing authorities.

- (g) A preliminary hearing on a motion for relief from the automatic stay will be a consolidated preliminary and final nonevidentiary hearing unless at the conclusion of the preliminary hearing the Court schedules a final evidentiary or nonevidentiary hearing.
- (h) If the estate representative fails to file a response within the time prescribed in section (c), then the estate representative shall be deemed to have assented to the motion.

**RULE 4001-2. USE OF CASH COLLATERAL, OBTAINING CREDIT AND STIPULATIONS RELATING TO SAME**

- (a) A motion for use of cash collateral, for authority to obtain credit, or a stipulation relating to same shall set forth the total dollar amount of the request for use of funds, the specific uses to which the funds will be put, the debtor's proposed budget for the use of the funds, the amount of debt asserted to be owed to any creditor claiming an interest in the collateral, the value of the collateral which secures the creditor's asserted interest, and any proposal for providing adequate protection. If the debtor seeks authority to use cash collateral or to obtain credit on an emergency or expedited basis, the debtor shall state the nature of the emergency requiring an emergency or expedited determination.
- (b) A motion for use of cash collateral, for authority to obtain credit, or a stipulation relating to same shall be served on all creditors who assert an interest in the cash collateral and their attorneys, if known, any taxing authority that has a claim against the debtor, the debtor's twenty (20) largest unsecured creditors, the members of any committee appointed in the case and counsel to any committee, any parties who have filed a request for service of all pleadings and notices and the United States trustee.
- (c) Subject to section (d), the following provisions contained in an agreement between the debtor and the holder of a secured claim as to use of cash collateral, obtaining credit, or adequate protection, or any interim or final order approving or authorizing the use of cash collateral, obtaining credit, or adequate protection, shall be unenforceable:
  - (1) any acknowledgment of the validity, amount, perfection, priority, extent or enforceability of the secured claim, if the agreement or order purports to bind any party other than the debtor, unless the agreement or order affords

an objection period of not less than ninety (90) days after (i) for any party in interest, the entry of the order approving the agreement; (ii) for the creditors' committee, the entry of an order approving the employment of counsel to the creditors' committee; and (iii) for a Chapter 11 or Chapter 7 trustee, the entry of an order approving the employment of counsel to said Chapter 11 or Chapter 7 trustee;

- (2) any waiver of defenses by the debtor or estate representative;
  - (3) any postpetition lien which purports to secure any claim of a secured creditor other than (i) a claim arising from postpetition advances which constitute an additional non-replacement extension of credit; or (ii) a claim representing the diminution in value of the secured claim after the commencement of the case;
  - (4) any grant of a security interest in avoidance power recoveries available to the trustee;
  - (5) any provision granting a creditor relief from the automatic stay without further order or hearing upon the breach of the cash collateral, adequate protection or postpetition financing order or agreement; or
  - (6) any waiver by the debtor or the estate representative of rights provided by 11 U.S.C. § 506(c), in whole or in part.
- (d) Notwithstanding section (c), the Court may order the enforcement of any terms and conditions on the use of cash collateral or obtaining credit, provided that (i) the proposed order or agreement specifically states that the proposed terms and conditions vary from the requirements of section (c), and (ii) any such proposed terms and conditions are conspicuously and specifically set forth in the proposed agreement or order.

**RULE 4003-1. AVOIDANCE OF JUDICIAL LIENS**

- (a) A motion to avoid a judicial lien pursuant to 11 U.S.C. §522(f)(1) shall:
- (1) identify the holder of the judicial lien sought to be avoided and provide the name and address of the lien holder;
  - (2) state the date the judicial lien was granted and identify the court that issued the lien;
  - (3) state the amount of the judicial lien as of the date of the filing of the petition;
  - (4) identify the holders of all other liens on the property listed in order of their priority;
  - (5) state the amount of each other lien on the property and provide a total of same;
  - (6) state the amount of the exemption that is allegedly impaired and provide the applicable statute for the debtor's claim of exemption;
  - (7) state the value of the debtor's interest in the property and attach any available appraisal report;
  - (8) apply the formula under 11 U.S.C. §522(f)(2)(A); and
  - (9) state whether the debtor contends that the entire lien is voidable, or if the lien can only be partially avoided, the amount of the surviving lien.
- (b) Any opposition to a motion to avoid a judicial lien shall admit or deny each and every allegation of the motion, specifically state why the motion should not be granted, and apply the formula under 11 U.S.C. §522(f)(2)(A). If the opposing party intends to rely on an appraisal report, the report shall be attached to the opposition.

**RULE 4008-1. REAFFIRMATION AGREEMENTS**

- (a) A reaffirmation agreement that does not comply with 11 U.S.C. § 524(c) or (d) shall be unenforceable. Fed. R. Bankr. P. 9011 shall apply to an attorney's declaration under 11 U.S.C. § 524(c).
  
- (b) If a debtor is unrepresented by counsel during the course of negotiating of a reaffirmation agreement, the Court shall hold a hearing on the approval of the reaffirmation agreement pursuant to 11 U.S.C. § 524(d). The Court, in its discretion, may schedule a hearing sua sponte on the validity or approval of any other reaffirmation agreement and/or may require that any reaffirmation agreement conform to Official Form 6.

**RULE 5001-1. DIVISIONS OF COURT, CASE ASSIGNMENTS AND FILING OF PAPERS**

- (a) The District of Massachusetts shall contain the divisions comprised of the counties, cities and towns set forth in MLBR Appendix 5.
  
- (b) All documents related to cases and proceedings for the Eastern division shall be filed in the Clerk's Office in Boston. All documents in cases and proceedings for the Western division shall be filed in the Clerk's Office in Worcester.
  
- (c) The debtor or petitioning creditor(s) shall file an original petition only in the appropriate division office. Venue for a division shall be determined in the same fashion as venue for a district under 28 U.S.C. ' 1408 and applicable case law. In the event of an emergency, either division office may accept for filing on behalf of the other division office an original petition under any chapter of the Bankruptcy Code, if accompanied by a written request for transfer to the appropriate division.
  
- (d) Any bankruptcy judge may, in the interest of justice or to further the efficient performance of the business of the Court, reassign a case or proceeding to any other bankruptcy judge, except that when reassignment is required by reason of recusal, the Clerk shall reassign the case or proceeding to another judge in the

same division (and if there is more than one available judge in that division, on a random basis) or, if there is no available judge in the division, on a random basis to an available judge within the district.

- (e) In the absence of a judge before whom a case or proceeding is pending, emergency matters submitted to the Court may be acted upon by any available judge as determined by the Clerk or as provided for by the absent judge.
- (f) The Clerk shall transfer any document pertaining to a case or proceeding mistakenly filed in the wrong division office to the proper division office and any such document shall be deemed to have been filed on the date first received in either office of the Clerk.
- (g) Any party filing a document in the Clerk's Office which relates to a matter scheduled for hearing within twenty four (24) hours of the filing shall specifically bring to the attention of the Clerk, through an accompanying cover letter, the fact that the matter is scheduled for a hearing within 24 hours of the filing, and request that it be delivered to the judge immediately. Failure to comply with this rule may result in the document being deemed filed late and not being considered by the Court.
- (h) Pleadings and other documents filed in a case or adversary proceeding may be removed from the Clerk's Office only if the Court has allowed a motion to remove the documents.

## **RULE 5001-2. OFFICE OF THE CLERK**

- (a) The offices of the Clerk of the Court at Boston and Worcester shall be open Monday through Friday with the Clerk or Deputy Clerk in attendance in accordance with Fed. R. Bankr. P. 5001(c).
- (b) All pleadings, including petitions, motions, and complaints, shall be received for filing in the office of the Clerk between the hours of 8:30 AM and 4:30 PM. Filings before 8:30 AM or after 4:30 PM on court days or on weekends or holidays can be made, for cause, by prior arrangements or in emergency

circumstances, as determined by the Clerk or his or her designee, by contacting the Clerk at the telephone numbers set forth in Appendix 5.

#### **RULE 5003-1. CLERK'S AUTHORITY TO ENTER MINISTERIAL ORDERS**

The clerk and his/her deputies are authorized to sign and enter without further direction by the Court the following orders, deemed to be of a ministerial nature:

- 1) Orders permitting the payment of the petition filing fee in installments and fixing the number, amounts and dates of payment;
- 2) Orders deferring the payment of an adversary proceeding filing fee;
- 3) Orders to correct defects in the documents accompanying the original petition or orders to file or update such documents;
- 4) Orders discharging a Chapter 7, 11, 12, or 13 trustee and closing a case after the case has been fully administered;
- 5) Orders granting a discharge;
- 6) Orders reopening a case that has been closed due to administrative error; and
- 7) Orders to show cause regarding inactivity in bankruptcy cases and adversary proceedings and orders dismissing cases for failure to comply with or to respond to an order to show cause.

This rule is not intended to limit a bankruptcy judge's discretion regarding the governance of a case in any way whatsoever. The above orders may, in particular cases, be subject to modification by a bankruptcy judge.

**RULE 5005-4. FACSIMILE FILINGS**

- (a) The Court will accept for filing documents electronically transmitted by facsimile machine or similar device, except for the following:
- (1) documents constituting a pleading for which a filing fee is required;
  - (2) documents, including a motion for emergency or expedited determination, which exceed 15 pages, exclusive of the certificate of service;
  - (3) proofs of claim and all documents sworn to under the pains and penalties of perjury; and
  - (4) all documents which constitute a higher offer to a notice of sale pursuant to 11 U.S.C. Section 363.
- (b) All documents filed in accordance with subsection (a) shall be deemed originally filed within the meaning of Fed. R. Civ. P. 5(e) and 11, as made applicable by Fed. R. Bankr. P. 9014 and within the meaning of Fed. R. Bankr. P. 9011. No subsequent original shall be filed after the document is filed by facsimile.
- (c) Documents received by the Clerk by facsimile after 4:30 P.M. on a court day shall be deemed received as of the following court day.

**RULE 5009-1. CLOSING CHAPTER 7 CASES**

No chapter 7 case in which dividends will be paid to creditors will be closed until the trustee has filed with the Court a statement indicating the following:

- (a) there are no pending adversary proceedings;
- (b) all claims have been examined and any objections to claims have been

resolved;

- (c) all applications by any professionals for compensation have been filed and acted upon, including an application by debtor's counsel to approve application of a retainer; and
- (d) the United States trustee has approved the final account, unless the Court determines that such approval is not necessary.

#### **RULE 5011-1. WITHDRAWAL OF THE REFERENCE**

A motion for withdrawal of the reference shall be filed with the Clerk of the Bankruptcy Court, accompanied by a properly completed United States District Court cover sheet and the prescribed filing fee. Upon the filing of such a motion, the Clerk shall docket receipt of the motion and promptly transmit the original motion and cover sheet to the Clerk of the United States District Court for disposition.

#### **RULE 5071-1. CONTINUANCES**

- (a) No continuance shall be effective unless the Court approves it in writing or in open court. Counsel shall not be excused from appearing before the Court absent such approval or an unexpected emergency.
- (b) If a matter or proceeding is resolved between the parties prior to the day of the hearing, any motion for the continuation of a trial or nonevidentiary hearing or for the approval of a settlement of any contested matter or adversary proceeding, or any withdrawal of a motion or opposition, shall be filed and served at least one (1) business day prior to the hearing date.
- (c) A motion to continue a hearing or withdraw a motion or opposition must be filed and served upon all previously served parties in a manner reasonably sufficient to reach said parties prior to their attendance at the subject hearing.

- (d) Sections (a) and (b) shall not apply to motions filed by the chapter 13 trustee to dismiss a case.

**RULE 6004-1. SALE OF ESTATE PROPERTY**

(a) Private Sales

(1) Contents of Notice

- (A) Unless the Court orders otherwise, a notice of proposed private sale shall be served upon the following parties: all creditors, parties in interest, including the United States trustee, parties who have filed appearances and requested service of all pleadings and notices, and parties regarded by the estate representative as potential purchasers, including, if appropriate, dealers in the property and competitors of the debtor. The notice shall be served no less than twenty (20) days prior to the deadline for filing objections or higher offers.
- (B) The notice of private sale shall be substantially similar to MLBR Official Form 2A. The notice shall contain blank spaces for the deadline for filing objections and higher offers, as well as a blank space for the date and time of the hearing on the sale. Higher offers, together with any requisite deposit required by the notice, shall be submitted to the estate representative by the deadline established by the Court and a copy of any higher offer shall be filed with the Court. The notice shall state that, unless otherwise ordered by the Court, a sealed bid auction among the initial proposed purchaser and any parties submitting higher offers shall take place in court on the hearing date. Upon filing of the proposed notice, the Clerk shall assign a deadline for filing objections and making higher offers and shall fix a hearing date. The estate representative shall then serve the completed notice as required by this rule or other order of the Court and shall file a certificate of service within seven (7) days of service.

## (2) Motion to Sell

- (A) Every notice of private sale shall be accompanied by a motion for authority to sell, whether or not the sale is to be free and clear of liens or interests. The motion shall identify the holder of any lien or interest, shall state the efforts made by the estate representative in exploring the market for the property, and shall state why a private sale, rather than a public sale, is in the estate's best interest. If all or substantially all of a chapter 11 debtor's assets are to be sold, the motion shall state why the sale is proposed under 11 U.S.C. § 363 rather than through a chapter 11 plan and shall contain a practical and abbreviated equivalent of the adequate information required in a disclosure statement to a chapter 11 plan.
  
- (B) Except as provided below, the estate representative must obtain prior court approval of any terms in the notice protecting any offeror, including (1) any benefit or advantage offered to the initial proposed purchaser which is not offered to other bidders or (2) a breakup fee or reimbursement of any offeror's expenses. Notwithstanding the foregoing, prior court approval shall not be required in connection with minimum overbids not in excess of 5% of the initial proposed purchase price.

## (3) Court Approval

- (A) If there are no objections or higher offers timely filed with the Court by the deadline, the Court may approve the sale without holding the scheduled hearing.
  
- (B) Within three (3) days of receipt of a written request by the debtor, estate representative, or other party in interest, the Clerk shall issue a certificate of no objections concerning the sale of property of the estate.

(C) Private Sale Book

The estate representative shall file two additional copies of the notice marked "Copies for Notice of Pending Sales Book." The Clerk shall maintain for public inspection at each division office a volume containing copies of all notices of pending private sales.

- (D) For the purposes of this rule, the term estate representative shall include a chapter 7 trustee, chapter 11 trustee, chapter 11 debtor in possession, chapter 12 trustee, and chapter 13 debtor.

(b) Public Auctions

(1) Court Authorization

The estate representative, with prior Court approval, may sell estate property by public auction. Subsequent confirmation by the Court of the auction is not required unless such confirmation is a condition of the Court's approval. The notice of public sale shall be substantially similar to MLBR Official Form 2B. The estate representative shall file a motion to sell the estate assets, and state why a public, rather than a private, sale is requested. Any auction advertisement placed by an auctioneer or estate representative shall conspicuously state the bankruptcy case name and number. The definition of estate representative set forth in subsection (a)(3)(D) shall apply under this rule.

(2) Qualification of Auctioneer

- (A) An auctioneer shall not be authorized to conduct a public auction of property of an estate without first obtaining the Court's specific prior approval of the auctioneer's employment, filing with the Court a bond in an amount fixed by the United States trustee, and furnishing the United States trustee with a copy of that bond. The bond shall be conditioned on the faithful performance of the auctioneer's duties and the auctioneer's accounting for all money and property of the estate that comes into his or her possession.

- (B) To avoid the necessity of filing separate bonds for smaller auction sales, the auctioneer may file with the Court a blanket bond similarly conditioned in a base amount fixed from time to time by the United States trustee to cover various cases in which the auctioneer may act. The auctioneer shall also provide the United States trustee with a copy of the blanket bond. If at any time the value of goods of various estates in the auctioneer's custody exceeds the amount of the blanket bond, the auctioneer shall obtain a separate bond or bonds so that the full amount of all goods of various bankruptcy estates in the auctioneer's custody is covered.
  
- (C) As a condition of the employment of an auctioneer in any bankruptcy estate, the auctioneer shall file a statement under the penalty of perjury that all goods of bankruptcy estates in the auctioneer's custody are fully covered at all times by separate bonds or blanket bonds or both.
  
- (D) An auctioneer shall not introduce non-bankruptcy estate items at an auction without the Court's prior approval. An auctioneer employed by an estate representative shall not bid on property of the estate. No buyer's premium shall be charged. Failure to comply with this subsection shall result in denial of all compensation and/or the issuance of sanctions.

(3) Attendance at Auction Sale

The estate representative or a representative of the trustee shall be present at an auction sale.

(4) Auctioneer's Compensation and Expenses

- (A) The auctioneer shall file and serve an application for compensation and reimbursement of expenses setting forth the amount requested, services rendered, time spent, and actual expenses incurred as required by Fed. R. Bankr. P. 2016(a). The Court shall award the auctioneer reasonable compensation and reimbursement of actual expenses not to exceed the percentages of gross proceeds set forth

in subsections (B) and (C) of this rule.

(B) Auctions of Personal Property

Unless otherwise ordered by the Court, with respect to auctions of personal property, the auctioneer's compensation shall not exceed the following percentages of gross proceeds:

- (1) 10% of the first ten thousand dollars (\$10,000) or part thereof;
- (2) 7% of the next ten thousand dollars (\$10,000) or part thereof;
- (3) 6% of the next thirty-five thousand dollars (\$35,000) or part thereof; and
- (4) 5% of the balance.

(C) Real Estate Auctions

Unless otherwise ordered by the Court, with respect to sales of real property, the auctioneer's compensation shall not exceed:

- (1) 10% of the first fifty thousand dollars (\$50,000) realized in excess of the amount of encumbrances; and
- (2) 2 ½% of the balance of the equity, with a minimum fee of \$500.00.

(D) Auction Expenses

The auctioneer shall be reimbursed for actual and necessary expenses incurred in connection with an auction, including

advertising, if the auctioneer has obtained approval by the Court in advance of the auction for these expenses. Unless otherwise ordered by the Court, the auctioneer shall not be reimbursed for any overhead expense associated with the auction, including labor, cleaning, setting up, lotting, and tagging.

(5) Public Sale Book

The estate representative shall file two additional copies of the notice marked "Copies for Notice of Pending Sales Book." The Clerk shall maintain for public inspection at each division office a volume containing copies of all notices of pending public sales.

**RULE 6005-1. APPRAISERS AND BROKERS**

- (a) An appraiser may be employed after allowance by the Court of a motion to employ and shall be paid at an hourly rate to be set from time to time by the Court or at a flat rate approved by the Court.
- (b) A broker may be employed after allowance by the Court of a motion to employ and shall be paid a commission at a rate approved by the Court.
- (c) No party or firm may act as an appraiser, and as a broker, and as an auctioneer, in any combination, in the same case.

**RULE 6006-1. MOTION FOR ASSUMPTION OR REJECTION OF EXECUTORY CONTRACT OR UNEXPIRED LEASE**

If a party files a motion seeking an extension of the deadline for filing a motion to assume or reject an executory contract or an unexpired lease within fifteen (15) days prior to the expiration of the sixty (60) day period found in 11 U.S.C. § 365(d), the movant must also file a motion for an emergency hearing. If the Court is unable to schedule a hearing before the expiration of the sixty (60) day period, the deadline shall

be automatically extended to the date of the hearing on the motion for extension or until the Court has acted on the motion, but in no event shall the deadline be extended for more than thirty (30) days beyond the original deadline. Nothing in this rule shall be deemed to limit the Court's ability to grant additional extensions for cause shown.

## **RULE 6007-1. ABANDONMENT OF ESTATE PROPERTY**

### **(a) Requesting Notice**

The Clerk shall include in the initial notice of a meeting of creditors pursuant to 11 U.S.C. § 341 the following language:

Notice is hereby given that any creditor or other interested party who wishes to receive notice of the estate representative's intention to abandon property of the estate pursuant to 11 U.S.C. § 554(a) must file with the Court and serve upon the estate representative and the United States trustee a written request for such notice within ten (10) days from the date first scheduled for the meeting of creditors.

### **(b) Estate Representative's Abandonment of Property**

After the expiration of the ten (10) day period referenced in section (a), the estate representative is authorized to limit notice of an abandonment of property to the debtor, debtor's counsel, any creditor claiming an interest in the property concerned, those creditors who have requested notice of such action in accordance with section (a), and those parties who have filed appearances and requested service of all notices and pleadings, provided that the value to the estate of the property concerned is less than \$5,000.00. If the value to the estate of the property concerned is greater than \$5,000.00, the estate representative shall provide notice of abandonment to all creditors and parties in interest in accordance with Fed. R. Bankr. P. 6007.

This rule is not intended to imply that estate representatives are required to abandon property with a value to the estate of less than \$5,000.00, or that estate representatives are in any manner restricted from liquidating or administering

such property in any other fashion.

(c) Estate Representative's Discretion to Utilize Full Notice

Nothing in this rule shall be deemed to prevent the estate representative from utilizing greater notice than that set forth for property with a value to the estate of less than \$5,000.00 if the estate representative, in his or her discretion, determines that notice of a greater magnitude is warranted.

(d) Within three (3) court days of receipt of a written request by the debtor, estate representative, or other party in interest, the Clerk shall issue a certificate of no objections concerning the abandonment of property of the estate.

**RULE 7003-1. INFORMATION TO ACCOMPANY COMPLAINT  
IN ADVERSARY PROCEEDINGS**

The original complaint commencing an adversary proceeding filed with the Clerk shall be accompanied by a completed adversary proceeding cover sheet.

**RULE 7016-1. PRETRIAL PROCEDURE**

(a) Upon consent of all parties, the Court may enter an order referring a proceeding to mediation or arbitration or other procedure for alternative dispute resolution upon such terms and conditions as the parties may agree in writing. Such terms and conditions shall include the procedure for selection and compensation of the mediator or arbitrator, the power and authority of the mediator or arbitrator, the deadline for the mediator or arbitrator's report to the Court on whether the matter has been resolved, and the procedures for protecting the confidentiality of the information disclosed at mediation or arbitration, including the protection of proprietary information and preservation of privileges.

(b) Any request for an extension of any deadline or for modification of a party's obligations under Fed. R. Bankr. P. 7016 shall be made by written motion which shall state the basis for the relief requested. The Court will not consider any such

motion unless consented to or accompanied by a certification made with particularity (time, date and circumstances) that the moving party has made a reasonable and good faith effort to reach agreement with the opposing party on the matter that is the subject of the motion.

- (c) If relief is sought under Fed. R. Civ. P. 26(c)(as made applicable by Fed. R. Bankr. P. 7026) or Fed. R. Bank. P. 7037, copies of the relevant portions of disputed documents shall be filed with the Court contemporaneously with any motion for order compelling disclosure or discovery. In addition, the Court will not consider any such motion unless accompanied by a certification made with particularity (time, date and circumstances) that the moving party has made a reasonable and good faith effort to reach agreement with the opposing party on the matter that is the subject of the motion.

#### **RULE 7024-2. NOTIFICATION OF CLAIM OF UNCONSTITUTIONALITY**

- (a) Whenever in any action, suit, or proceeding to which the United States or any agency, officer or employee thereof is not a party, the constitutionality of any Act of Congress affecting the public interest is drawn into question, the party raising such question shall file a notice to enable the Court to comply with 28 U.S.C. § 2403(a), and shall serve a copy of the notice upon the United States trustee, giving the title of the cause, a reference to the questioned statute sufficient for its identification, and the respects in which it is claimed to be unconstitutional.
- (b) Whenever in any action, suit or proceeding to which a State of the Union or any agency, officer or employee thereof is not a party, the constitutionality of any statute of that State is drawn into question, the party raising such question shall file a notice to enable the Court to comply with 28 U.S.C. § 2403(b), and shall serve a copy of the notice upon the United States trustee, giving the title of the cause, a reference to the questioned statute sufficient for its identification, and the respects in which it is claimed to be unconstitutional.

#### **RULE 7026-1. GENERAL PROVISIONS GOVERNING DISCOVERY**

- (a) Depositions upon oral examinations, transcripts, interrogatories, requests for documents, requests for admissions, and answers and responses thereto, shall not be filed unless so ordered by the Court or for use in the proceeding. The party taking a deposition or obtaining any material through discovery is responsible for its preservation and delivery to the Court if needed or so ordered. If, for any reason, any party believes that any of the above-named documents should be filed, a motion for authority to file such documents may be made together with the reasons for the request. If the moving party under Fed. R. Bankr. P. 7056 or the opponent relies on discovery documents, copies of the pertinent parts thereof shall be filed with the motion or opposition. The Court also may order the filing of documents sua sponte and, in addition, may order the parties to disclose any information and documentation that the Court determines are discoverable by the submission of sworn statements of any party.
  
- (b) Any request for an extension of any deadline or for modification of a party's obligations under Fed. R. Bankr. P. 7026 shall be made by written motion which shall state the basis for the relief requested. The Court will not consider any such motion unless consented to or accompanied by a certification made with particularity (time, date and circumstances) that the moving party has made a reasonable and good faith effort to reach agreement with the opposing party on the matter that is the subject of the motion.
  
- (c) If relief is sought under Fed. R. Civ. P. 26(c)(as made applicable by Fed. R. Bankr. P. 7026) or Fed. R. Bank. P. 7037, copies of the relevant portions of disputed documents shall be filed with the Court contemporaneously with any motion for order compelling disclosure or discovery. In addition, the Court will not consider any such motion unless accompanied by a certification made with particularity (time, date and circumstances) that the moving party has made a reasonable and good faith effort to reach agreement with the opposing party on the matter that is the subject of the motion.

#### **RULE 7027-1. DEPOSITIONS**

For purposes of Fed. R. Civ. P. 45(b)(2), made applicable to bankruptcy cases by Fed. R. Bankr. P. 9016, and without order of the Court:

- (a) Boston shall be deemed a convenient place for the taking of a deposition of any person who resides, is employed, or transacts his or her business in person in any of the following counties: Suffolk, Bristol, Essex, Middlesex, Norfolk and Plymouth.
- (b) Springfield shall be deemed a convenient place for the taking of a deposition of any person who resides, is employed, or transacts his or her business in person in any of the following counties: Berkshire, Franklin, Hampden and Hampshire.
- (c) Depositions of parties residing within the counties of Worcester, Barnstable, Dukes or Nantucket shall be held within their respective counties.

#### **RULE 7033-1. INTERROGATORIES**

- (a) Number of Interrogatories

A party may proffer no more than twenty-five (25) interrogatories to another party without leave of Court.

- (b) Form of Response

- (1) Answers and objections in response to interrogatories served pursuant to Fed. R. Bankr. P. 7033 shall be made in the order of the interrogatories.

- (2) Each answer, statement, or objection shall be preceded by the interrogatory to which it responds.

- (3) Each objection and the grounds for the objection shall be stated separately.

- (c) Provisions of MLBR 9013-1 Applicable to Objections

The provisions of MLBR 9013-1(e) shall be applicable to any motions relating to

objections to interrogatories.

(d) Answers to Interrogatories Accompanying or Following Objection

- (1) When there is an objection to part of an interrogatory which is separable from the remainder, the part to which there is no objection shall be answered.
- (2) Answers to interrogatories with respect to which objections were served and which are subsequently required to be answered shall be served within fifteen (15) days after entry of an order determining that they should be answered, unless the Court directs otherwise.

(e) Supplemental Answers to Certain Interrogatories

If a party has served an answer to an interrogatory which directly requests information concerning the identity and location of persons having knowledge of relevant facts, and the party later learns that the answer is substantially incomplete, that party shall file a supplemental answer or objection within seven (7) days after learning that the answer is substantially incomplete.

**RULE 7036-1. REQUESTS FOR ADMISSION**

(a) Form of Response

- (1) Answers and objections in response to requests for admission served pursuant to Fed. R. Bankr. P. 7036 shall be made in the order of the requests for admission.
- (2) Each answer, statement, or objection shall be preceded by the request for admission to which it responds.
- (3) Each objection and the grounds for the objection shall be stated separately.

(b) Provisions of MLBR 9013-1 Applicable to Objections

The provisions of MLBR 9013-1(e) shall be applicable to any motions relating to objections to requests for admission.

(c) Statements in Response to Requests for Admission After Objection

When there is an objection to a request for admission and it is subsequently determined that the request is proper, the matter for which admission is requested shall be deemed admitted unless within ten (10) days after entry of an order making such determination, or such other period as the Court directs, the party to whom the request was directed serves a statement denying the matter or setting forth the reasons why the matter cannot be admitted or denied, as provided in Fed. R. Bankr. P. 7036.

**RULE 7037-1. FAILURE TO MAKE DISCOVERY; SANCTIONS**

(a) Fed. R. Civ. P. 37 applies in adversary proceedings and contested matters, except that any reference to Fed. R. Civ. P. 26 (a) shall be deleted and substituted with a reference to MLBR 7026-1(b).

(b) Prior to the filing of any motion relating to a discovery dispute, including a motion to compel discovery, a motion for a protective order, or a motion for sanctions, counsel for the parties or any pro se party shall confer by telephone or in person in a good faith effort to resolve the discovery dispute and to eliminate as many areas of the dispute as possible without the necessity of filing a motion. It shall be the responsibility of the party seeking the discovery order to arrange for the conference. Unless relieved by order of the Court, the conference shall take place within ten (10) days of the service of a letter requesting the conference. Failure of any party to respond to a request for a discovery conference within seven (7) days of a request for the conference shall be grounds for sanctions, which may include substantive and/or monetary sanctions. Any motion relating to discovery must be accompanied by a statement signed under the penalty of perjury that the movant has complied with the provisions of this section.

- (c) If the parties are unable to resolve a discovery dispute and a discovery motion is filed, the parties shall file a joint stipulation specifying separately and with particularity (1) the date of the discovery conference and, if it was not held, the reason why; (2) the matters on which the parties reached agreement; (3) each contested discovery issue that remains to be determined by the Court; and (4) a statement of each party's position as to each contested issue, with supporting legal authority. The stipulation shall be filed within seven (7) days after the discovery motion. The failure of any party or attorney to cooperate in resolving discovery disputes may result in the imposition of sanctions, including but not limited to, the sanctions provided in Fed. R. Civ. P. 37.

#### **RULE 7052-1. JUDGMENTS-PREPARATION AND ENTRY**

Subject to the provisions of Fed. R. Bankr. P. 7054, upon a general verdict of a jury or upon a decision by the Court that a party shall recover only money or costs or that all relief shall be denied, the Clerk, unless the Court orders otherwise, shall forthwith prepare, sign and enter the judgment without further order of the Court; provided, however, that upon either a decision by the Court granting other relief or upon a special or general verdict accompanied by answers to interrogatories, the Court shall enter the judgment. The judgment shall be set forth on a separate document, in accordance with Fed. R. Civ. P. 58, and shall be effective only upon its entry on the docket, pursuant to Fed. R. Civ. P. 79(a). Entry of the judgment shall not be delayed for the taxing of costs.

#### **RULE 7055-1. JUDGMENT BY DEFAULT**

Judgment by default may be signed and entered by the Clerk in such circumstances as are specified in Fed. R. Civ. P. 55(b)(1) when accompanied by an affidavit that the person against whom judgment is sought is not an infant, an incompetent person, or serving in the armed forces within the meaning of the Soldiers and Sailors Civil Relief Act of 1940, 50 U.S.C. § 520(1). Upon application of any party, the Clerk shall make and file a certificate of default as to any party in default for the convenience of the Court or of the party applying for the default judgment. When application is made to the Court under Fed. R. Civ. P. 55(b)(2), made applicable through Fed. R. Bankr. P. 7055, for a default judgment, unless the Court orders otherwise, the Clerk shall schedule a hearing and notify counsel of the hearing date. If the party against whom judgment by default is sought has appeared in the action or proceeding,

the party seeking the default judgment and the Clerk shall give notice of the hearing as required by Fed. R. Civ. P. 55(b)(2). With leave of Court, proof may be submitted by affidavit, and the Court may order such further hearing as it deems necessary.

## **RULE 7055-2. DISMISSAL FOR WANT OF PROSECUTION**

### **(a) Dismissal of Proceedings Inactive for Six Months**

- (1) The Clerk shall mail notice to all persons who have entered an appearance in any adversary proceeding in which no action was taken by any party during the preceding six months that, subject to the provisions of subsection (3) of this section, the adversary proceeding will be dismissed thirty (30) days after the date of the notice.
- (2) After the thirtieth day following the sending of the notice, the Clerk shall, subject to the provisions of subsection (3), enter an order of dismissal without prejudice and serve the order upon the parties.
- (3) An adversary proceeding shall not be dismissed by the Clerk for want of prosecution if, within thirty (30) days of the sending of notice:
  - (A) there are further proceedings in the adversary proceeding; or
  - (B) a response is filed in opposition to the proposed dismissal.

### **(b) Effect of Dismissal**

The dismissal of an adversary proceeding pursuant to this rule shall be without prejudice and without costs unless the Court on motion of a party directs otherwise.

## **RULE 7056-1. SUMMARY JUDGMENT**

District Court Local Rule 56.1<sup>1</sup> is adopted and made applicable to proceedings in the Bankruptcy Court.

## **RULE 7067-1. REGISTRY FUNDS**

The provisions of U.S. District Court Local Rules 67.2, 67.3, and 67.4 shall be applicable to proceedings in the United States Bankruptcy Court for the District of Massachusetts. References in specific United States District Court Local Rules to the "Clerk, United States District Court" or the "United States District Court" shall be replaced with "Clerk, United States Bankruptcy Court" or the "United States Bankruptcy Court," respectively.

## **RULE 9004-1. FONT SIZE**

The font size of all original documents, other than the Petition, Schedules and Statement of Affairs, shall be not less than 12 point type. The font size of the Petition, Schedules and Statement of Affairs shall be not less than 10 point type.

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### **<sup>1</sup> LR. 56.1 MOTIONS FOR SUMMARY JUDGMENT**

Motions for summary judgment shall include a concise statement of the material facts of record as to which the moving party contends there is no genuine issue to be tried, with page references to affidavits, depositions and other documentation. Failure to include such a statement constitutes grounds for denial of the motion. Opposition to motions for summary judgment shall include a concise statement of the material facts of record as to which it is contended that there exists a genuine issue to be tried, with page references to affidavits, depositions and other documentation. Copies of all referenced documentation shall be filed as exhibits to the motion or opposition. Material facts of record set forth in the statement required to be served by the moving party will be deemed for purposes of the motion to be admitted by opposing parties unless controverted by the statement required to be served by opposing parties.

*Effective September 1, 1990.*

**RULE 9006-1. EXTENSIONS OF TIME FOR DISCHARGE COMPLAINTS AND OBJECTIONS TO EXEMPTIONS**

If the Court is unable to act on any motion to extend any deadline for filing complaints relating to the debtor's discharge or for filing objections to the debtor's claim of exemptions, which motion to extend was filed before the expiration of the deadline, the deadline shall be automatically extended to the date that the Court acts on the motion.

**RULE 9009-1. OFFICIAL LOCAL FORMS**

The forms adopted by this Court as MLBR Official Local Forms and the official forms promulgated by the Judicial Conference of the United States shall be utilized in cases and proceedings filed in this Court under Title 11 of the United States Code. The MLBR Official Local Forms may be amended and supplemented from time to time.

**RULE 9010-1. REPRESENTATION AND APPEARANCES**

- (a) A person who is a member in good standing of the bar of United States District Court for the District of Massachusetts may appear and practice before this Court.
  
- (b) Except as provided in subsection (d) of this rule, an attorney who is not a member of the bar of the United States District Court for the District of Massachusetts, but is a member of the bar of any other United States District Court or the bar of the highest court of any state may appear and practice in this Court in a particular case or adversary proceeding only by leave granted in the discretion of the Court, provided such attorney files a certificate attesting that (1) the attorney is a member of the bar in good standing in every jurisdiction where the attorney has been admitted to practice; (2) there are no disciplinary proceedings pending against such attorney as a member of the bar in any jurisdiction; and (3) the attorney is familiar with the Local Rules of this Court. An attorney seeking admission under this subsection may not enter an appearance or sign any pleadings until admission is granted, except that the attorney may sign a complaint or any other pleading necessary to prevent entry of default or the passage of any deadline, provided such complaint or other pleading is accompanied by the

attorney's application for admission under this subsection in proper form. An attorney seeking admission under this subsection more frequently than twice in any 12 month period shall additionally certify (1) the attorney's efforts to seek admission to the bar of the United States District Court for the District of Massachusetts; or (2) why such efforts have not been undertaken.

- (c) A corporation, partnership or trust, by and through an officer or agent, or a person authorized by a power of attorney, may file a proof of claim or an application for payment of unclaimed monies due such entity, and may be heard on objections to claims or applications for payment. Otherwise, such entities shall appear only through counsel.
- (d) An attorney need not obtain leave to appear and practice in a particular case merely to file a request for service or a proof of claim.

### **RULE 9010-3. NOTICE OF APPEARANCE**

- (a) The filing of any pleading or other document by an attorney shall constitute an appearance in the case or proceeding in which the pleading or document is filed by the attorney who signs it, unless the pleading or document states otherwise.
- (b) An appearance in a case or proceeding by a member of the bar of the United States District Court for the District of Massachusetts may be made by filing a notice of appearance which shall contain the name, address, telephone number and any registration number assigned by the Board of Bar Overseers of the Commonwealth of Massachusetts (the "BBO number") of the attorney entering the appearance. If the Court has authorized the attorney to appear pro hac vice with respect to a particular matter pursuant to MLBR 9010-1 (b), the Clerk shall assign a Bankruptcy Court registration number (the "PHV number") to the attorney which number must be set forth by the attorney in any pleadings filed in this Court in connection with the matter.
- (c) If an attorney wishes to receive copies of all notices and pleadings, the attorney must file an appearance with a specific request to be so served and must serve a copy of such request on the trustee and counsel for the trustee or debtor in possession and counsel for the debtor; otherwise, the attorney will receive only

those notices, pleadings and orders that affect his or her client as required by the Federal Rules of Bankruptcy Procedure.

- (d) An attorney representing a debtor in a bankruptcy case is required to represent the debtor in any adversary proceeding filed within the bankruptcy case in which the debtor is a named defendant unless the debtor expressly agrees otherwise in writing at the commencement of the representation.
- (e) The Clerk shall maintain a general appearance list within each case and make it available to any attorney or party upon request. The Clerk shall also maintain a general appearance list on the PACER system.

#### **RULE 9011-1.      SIGNING OF PAPERS**

Any pleading filed with the Court shall set forth the name, address, telephone number, and BBO or PHV number, see MLBR 9010-3, of the attorney signing the pleading.

#### **RULE 9013-1.      MOTIONS**

- (a) A request for an order shall be made by motion. Unless it is made during the course of a hearing or trial, the motion must be in writing, setting forth each allegation in a numbered paragraph, and must be filed with the Clerk. Any request that is made by letter need not be considered by the Court.
- (b) Before the filing of any motion, except a motion for an emergency hearing under MLBR 9013-1(h) or a routine motion unlikely to be opposed by any party in interest, the movant shall make a reasonable and good faith effort to determine whether or not the motion is unopposed.
- (c) The movant may file together with the motion a separate supporting memorandum, including argument and citations to authorities. If the motion is based upon affidavits and documents evidencing facts on which the motion is based, the

affidavits and documents must be filed with the motion, unless they are unavailable at the time that the motion is filed. Letters from counsel or parties will not be accepted as memoranda in support of a motion and may be disregarded by the Court.

- (d) The Court, in its discretion, may schedule a motion for hearing or establish a deadline for filing objections or responses to a motion. Any party opposing entry of the order requested by a motion must file a response to the motion no later than the response date set in the hearing notice, or if no response date is set in the hearing notice, within ten (10) days of service of the motion, inclusive of the three (3) day mailing period set forth in Fed. R. Bankr. P. 9006(f). All hearing dates and response deadlines shall be set by the Clerk. The Clerk shall notify the movant of the hearing date and/or response deadline and the manner of service.
- (e) The Court may act upon a motion without a hearing under appropriate circumstances, including the following:
  - (1) if no objection is filed to the motion (A) within ten (10) days of the date of service of the motion, or (B) after any specific objection deadline established by the Court, whichever is later, or
  - (2) prior to the expiration of any applicable objection period, if the motion is:
    - (A) a non-adversarial motion of a routine nature;
    - (B) a motion to which all affected parties in interest have consented;
    - (C) a motion that is without merit in light of the law and the established facts of the case; and
    - (D) a motion that is opposed only by objections which are, given the law and the established facts of the case, without merit.
- (f) The Court, in its discretion, may remove from the hearing list any motion that has been scheduled for hearing if no timely written response or objection has been

filed. The Court may consider and act upon such matters without a hearing and may enter the proposed order submitted with the motion, request from the movant a modified order indicating the lack of timely opposition and the fact that no hearing was held, or enter an appropriate order of its own.

(g) Expedited Hearings

If movant seeks to have a motion considered by the Court earlier than seven (7) court days after the motion is filed, the movant shall file a separate motion entitled "Motion for Expedited Hearing."

(1) Motion for Expedited Hearing

The motion for expedited hearing shall set forth in detail all facts and circumstances which justify expedited hearing and may include or be accompanied by documents, affidavits or a memorandum which includes citations to pertinent authority.

(2) Limitation of Notice

If the facts and circumstances leading to the request for an expedited hearing or the nature of the relief requested warrant limitation of notice, the motion for expedited hearing shall include a request that notice be limited to designated recipients and recommend a practical manner of notice reasonably calculated to inform affected parties that the motion is pending and that a hearing is requested on an expedited basis. It is the duty of the party seeking an expedited hearing and limitation of notice to make a reasonable and good faith effort to advise all affected parties of the pending motion and of the time and date of the hearing. Such reasonable and good faith efforts may include providing notice of the substance of the motion and request for expedited hearing by telephone or by facsimile transmission in appropriate circumstances.

(3) Responses to Expedited Motions

Written responses to expedited motions shall be filed within the time

established by the Court. The content of responses to expedited motions, to the extent possible under the existing circumstances, shall include the information required for responses to non-expedited motions. If no response time is established by the Court, responses to expedited motions shall be filed no later than the business day preceding the day of the hearing.

(4) Hearings on Expedited Motions

The Court shall set such conditions for any hearing and shall schedule and conduct the hearing, telephonically or otherwise, as appropriate under the circumstances.

(h) Emergency Motions

If a movant seeks to have a motion considered by the Court earlier than two (2) court days after the motion is filed, it shall file a separate motion denominated "Motion for Emergency Hearing."

(1) Contents of Motion for Emergency Hearing

The motion for emergency hearing shall set forth in detail all facts and circumstances which necessitate an emergency hearing and may be accompanied by documents, affidavits or a memorandum which includes citations to pertinent authority.

(2) Limitation of Notice

If the necessity of an emergency hearing precludes the movant's ability to provide notice in a timely manner to the parties otherwise required by these rules or the Federal Rules of Bankruptcy Procedure, the motion for emergency hearing shall include a request that notice be limited to designated recipients and recommend a practical manner of notice reasonably calculated to inform affected parties that the motion is pending and that an emergency hearing may take place. It is the duty of the party seeking an emergency hearing to make a reasonable and good faith effort

to advise all affected parties of the motion and of the time and date for hearing. Such reasonable and good faith efforts may include providing notice of the substance of the motion and of the date and time of hearings by telephone or by facsimile transmission. Such efforts may, and in appropriate circumstances should, include attempts to provide notice of the motion and a motion for an order limiting notice in advance of filing the motions.

(3) Responses to Emergency Motions

Notwithstanding any other provisions of these rules, written responses to emergency motions are not required. However, written responses are encouraged and may be filed up to the time that the hearing is convened.

(4) Hearings on Emergency Motions

The Court shall set such conditions for the emergency hearing and shall schedule and conduct the hearing, telephonically or otherwise, as appropriate in the circumstances.

(i) Ex Parte Motions

A motion seeking ex parte relief may be filed only in circumstances in which immediate action is required to maintain the status quo until an appropriate hearing on notice can be conducted. A motion for ex parte relief shall be verified or supported by affidavit and shall set forth specific facts and circumstances necessitating ex parte relief. The motion shall include a statement as to why proceeding under this rule's procedures for expedited or emergency hearing is not practical. All orders or proposed orders providing ex parte relief shall include the finding that the relief requested could not be delayed and that affected parties may request a hearing on the subject matter addressed by the ex parte motion by filing a motion for review of the ex parte action within ten (10) days of service of the order for ex parte relief. The Court shall schedule a hearing on such a post-order motion, if appropriate, as soon as is practicable.

(j) Oppositions

In any opposition to a motion, the opposing party shall admit or deny each allegation of the motion, state any affirmative defense to the motion, and state specifically why the relief requested in the motion should not be granted.

### **RULE 9013-3. SERVICE OF PLEADINGS AND NOTICES**

#### **(a) Motions and Other Documents**

Upon filing a motion requesting action by the Court, with the exception of an adversary complaint, counsel (or a pro se party) shall immediately serve the motion upon all interested parties and upon all parties who have filed their appearances and requested service of all pleadings filed in the case. A certificate of service shall be filed with the motion and served in the same manner and on the same parties as the motion, unless otherwise directed by the Court.

#### **(b) Notice of Hearing**

Upon receipt of a notice of hearing from the Court, counsel (or a pro se party) shall immediately serve the notice upon all interested parties and parties who have filed their appearances and requested service of all notices in the case. A certificate of service shall be filed with the Clerk at the same time as service of the notice of hearing and shall be served in the same manner and on the same parties as the notice of hearing, unless otherwise directed by the Court.

#### **(c) Statement on Scope of Service**

A certificate of service shall list the name and address of each person and attorney being served with the pleading and the name of the party or parties that an attorney represents. If service is required to be made upon all creditors pursuant to Fed. R. Bankr. P. 2002, the certificate of service shall specifically state whether all creditors have been served and shall list the names and addresses of the parties served.

(d) Sanctions

Failure to comply with the provisions of this rule may result in the imposition of monetary sanctions, non-monetary sanctions, or denial of the relief sought as the Court, in its discretion, deems proper.

**RULE 9015-1. JURY TRIALS**

- (a) In any bankruptcy case or proceeding, issues triable by jury shall be tried by a jury if a party timely demands a jury trial in accordance with the provisions of this rule. Nothing in this rule shall be deemed to (1) create or imply a right to jury trial where no such right exists under applicable law or (2) violate a party's right of trial by jury as set forth in the Seventh Amendment to the Constitution or in any statute of the United States. On motion or on its own initiative, the Court may determine whether there is a right to trial by jury in any adversary proceeding or contested matter or whether a jury demand should be granted or stricken.
- (b) Any party may demand a jury trial of any issue triable by jury by filing with the Court and serving upon the other parties a written demand for jury trial no later than the deadline for filing the answer or the reply to a counterclaim or cross claim in an adversary proceeding, or in a contested matter no later than the deadline for filing the initial responsive pleading or opposition. A jury demand may be made in any pleading and need not be made in a separate pleading. The failure of a party to file and serve a demand constitutes a waiver of the right to trial by jury. A demand for a jury trial may not be withdrawn without the consent of all parties.
- (c) The bankruptcy judge may conduct a jury trial pursuant to 28 U.S.C. § 157(e) if the right to a jury trial applies and a timely demand has been made, provided that the parties file a pleading entitled "Joint Statement of Consent to Jury Trial in the Bankruptcy Court" no later than the date established by the Court for the filing of the Joint Pretrial Memorandum pursuant to MLBR 7016-1 or such other time as the Court may fix. If the parties do not file the Joint Statement of Consent to Jury Trial in the Bankruptcy Court, the Bankruptcy Court shall conduct all pretrial proceedings and thereafter transfer the case or proceeding to the appropriate United States District Court for trial.

## **RULE 9018-1.      IMPOUNDMENT OF PAPERS**

- (a) For cause reflecting a genuine risk of substantial harm to any party in interest, the court may order that some or all of the papers in the case be impounded by the clerk. Such impounded papers shall be maintained under clerk custody separate and apart from files to which the public has access; no computer or other images thereof shall be made for public viewing.
  
- (b) A request for impoundment shall be made by motion. The papers sought to be impounded shall be placed in a sealed envelope or container conspicuously marked "filed subject to pending impoundment motion," and shall be filed simultaneously with the motion. The motion shall contain (i) a statement under oath setting forth the grounds for impoundment, (ii) a statement of the earliest date on which the impounding order may be lifted, or a statement, supported by good cause, that the material should be impounded until further order of the court, and (iii) suggested custody arrangements for the post-impoundment period, if any.
  
- (c) The court shall review the papers sought to be impounded in camera. If the motion for impoundment is denied, the papers shall be returned to the party requesting impoundment and, if refiled, shall be filed with other pleadings in the case to which public access is allowed. If the motion for impoundment is granted, the order of impoundment shall be filed with the pleadings in the case. The impounded papers shall be transferred to the custody of the clerk for special storage. The clerk shall attach a copy of the order of impoundment to the envelope or other container holding the impounded material. Thereafter, access to the impounded papers shall be limited to the court, the clerk, the party for whose benefit the impoundment order was granted, and any party who, upon motion, notice to the party for whose benefit the impoundment order was granted and an opportunity to be heard, receives relief from the impoundment order in whole or in part.
  
- (d) If the impoundment order expires by its terms but provides no arrangements for post-impoundment custody of the impounded papers, or if the impoundment order provides for post-impoundment custody of the impounded papers, but the impounded papers are not timely retrieved, the clerk shall provide notice of no less than thirty (30) days to the party for whose benefit the impoundment order was granted, or his, her or its attorney, that the said papers shall, in the absence

of timely objection made prior to the expiration of the notice period, be placed in the public file.

- (e) For good cause shown by affidavit attesting to a risk of irreparable harm if advance notice is given to any other party, the motion for impoundment may be heard ex-parte.

#### **RULE 9019-1. STIPULATIONS; SETTLEMENTS**

- (a) All stipulations affecting a case or proceeding before the Court, except stipulations which are made in open court, shall be in writing, signed, and filed with the Court. No stipulation shall have the effect of relieving the parties from a prior order of the Court, including a scheduling order, unless such stipulation is approved by the Court in writing.
- (b) When a proceeding or matter is settled, the parties shall, within seven (7) days or such other time as the Court may direct, file a signed stipulation or agreement for judgment or such other document as the Court may direct.
- (c) A settlement of any controversy that affects the estate, except the settlement of complaints pursuant to 11 U.S.C. § 523, shall be accompanied by a motion to approve the stipulation pursuant to Fed. R. Bankr. P. 9019 and, unless otherwise ordered by the Court, the stipulation and motion to approve the stipulation shall be served on all creditors and interested parties in accordance with Fed. R. Bankr. P. 2002. The settlement of a complaint under 11 U.S.C. § 523 may be documented by the filing of a stipulation of dismissal or an agreement for judgment in the adversary proceeding. A stipulation with respect to a motion for relief from stay shall be accompanied by a motion and shall be served in accordance with Fed. R. Bankr. P. 4001(d).

#### **RULE 9022-1. NOTICE OF ENTRY OF ORDERS AND JUDGMENTS**

The Clerk's mailing to either attorneys of record or pro se parties of copies of orders or judgments showing the date such orders or judgments were entered shall

constitute notice of entry pursuant to the provisions of Fed. R. Civ. P. 77(d). The Clerk shall indicate the date of such mailing on the Court docket.

#### **RULE 9027-1. REMOVAL**

Upon motion, the Court, in its discretion, may permit the filing of a certified docket and photocopies of all records and proceedings in a state or federal court, upon the representation of counsel for the party removing the action that the pleadings are true and accurate copies of the pleadings on file with the state or federal court.

#### **RULE 9029-1. APPLICATION**

- (a) These rules shall govern all cases and civil proceedings arising under Title 11 or related to cases under Title 11 that are referred to or otherwise being heard by the bankruptcy judges in this district. All prior local rules are hereby repealed.
- (b) To the extent that a conflict appears or arises between these rules and the Federal Rules of Bankruptcy Procedure promulgated by the Supreme Court of the United States, the latter shall govern.
- (c) The Appendices annexed hereto may be amended, from time to time, by joint order of the bankruptcy judges. Nothing in these rules shall prohibit the issuance by one or more individual bankruptcy judges of standing orders relative to the conduct of cases and proceedings before them. A copy of any standing order shall be annexed to these rules by the Clerk.

#### **RULE 9029-3. APPLICABILITY OF U.S. DISTRICT COURT LOCAL RULES**

The following U.S. District Court Local Rules shall be applicable in the United States Bankruptcy Court for the District of Massachusetts:

- 26.5 (Uniform Definitions in Discovery Requests)
- 56.1 (Motions for Summary Judgment)
- 67.2 (Registry Funds)
- 67.3 (Disbursement of Registry Funds)
- 67.4 (Payments and Deposits Made With the Clerk)
- 81.2 (Definition of Judicial Officer)
- 83.6 (Rules of Disciplinary Enforcement)
- 201 (Reference to Bankruptcy Court)
- 202 (Bankruptcy Court Jury Trials)
- 203 (Bankruptcy Appeals)
- 204 (Bankruptcy Court Local Rules)
- 205 (Disciplinary Referrals by Bankruptcy Judges)

The other Local Rules of the United States District Court shall not govern cases or proceedings before the United States Bankruptcy Court.

**RULE 9036-1. ELECTRONIC FILING RULES**

The procedures set forth in Appendix 8 hereof, as amended from time to time,

shall be known as the Electronic Filing Rules of the United States Bankruptcy Court for the District of Massachusetts, and shall be referred to in abbreviation as "MEFR." To the extent that the MEFR conflict with the provisions of the Massachusetts Local Bankruptcy Rules, the provisions of the MEFR shall govern.

#### **RULE 9070-1. EXHIBITS**

After a trial, exhibits shall remain in the custody of the Court. If there is no appeal from the Court's decision after the time for filing a notice of appeal has elapsed, or after any appeal has been finally determined, the Clerk shall notify the parties that the exhibits should be removed from the Court within thirty (30) days and that if they are not removed within that time, the Clerk will dispose of them. If the exhibits are not removed or another arrangement made with the Clerk within thirty (30) days, the Clerk may, without further notice, destroy or otherwise dispose of them. If a notice of appeal is filed, the Clerk shall make the exhibits available to the parties for duplication for the record on appeal. After any appeal has been finally determined, the Clerk shall make any disposition of the exhibits required by the Clerk of the appellate court or as otherwise permitted under this rule.

**APPENDIX 1**

**CHAPTER 13 RULES**

## APPENDIX 1

### CHAPTER 13 RULES

#### 13-1. APPLICABILITY

These chapter 13 rules relate to chapter 13 cases filed in all divisions of the Court, and supersede any previous orders in conflict with these provisions. To the extent that these rules conflict with the provisions of the Massachusetts Local Bankruptcy Rules ("MLBR"), the provisions of these rules shall prevail. In all other respects, the MLBR shall apply in all chapter 13 cases.

#### 13-2. COMMENCEMENT OF CASE

(a) The debtor<sup>2</sup> shall file an original and three copies of each of the following documents:

1. the petition;
2. Schedules A through J and the Statement of Financial Affairs;
3. the chapter 13 plan;
4. the Statement required under Fed. R. Bankr. P. 2016(b) (if applicable);
5. an application and proposed order authorizing payment of the filing fee in installments (if applicable); and

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2. For the purposes of these chapter 13 rules, the use of the term debtor shall include both debtors in a joint case.

6. the matrix (original only) in conformity with MLBR Official Local Form 1 listing the names, addresses and zip codes in alphabetical order of all creditors, parties in interest, debtor's counsel, the debtor, the chapter 13 trustee, and the United States trustee.
  
7. If the debtor is a debtor engaged in business, the debtor shall also file and serve on the chapter 13 trustee:
  - a. the Statement of Financial Affairs for debtor engaged in business;
  
  - b. a profit and loss statement for the calendar year or fiscal year, whichever is applicable, preceding the year in which the case is filed, and a profit and loss statement for the period from the end of the calendar or fiscal year to the date of the filing of the petition;
  
  - c. a statement by the debtor as to whether the debtor's business incurs trade debt;
  
  - d. a statement of quarterly income and expenses incurred, regardless of whether the debtor incurs trade debt, within thirty (30) days of the close of each quarter, with a copy served on the chapter 13 trustee; and
  
  - e. within five (5) days after the commencement of the case:
    - (i) evidence of appropriate business insurance; and
  
    - (ii) evidence that appropriate debtor in possession checking accounts were opened at the time of the filing of the petition;
  
8. an executed copy of the engagement agreement by and between the debtor and any attorney retained by the debtor, in the form set

forth on Official Local Form 8.

- (b) Failure to timely submit the documents required by subsection (a) may result in dismissal of the case pursuant to 11 U.S.C. §§ 109(g)(1) or 1307. Upon the debtor's filing of a motion prior to the expiration of the deadlines established by this section, and upon a showing of good cause, the Court may excuse the debtor from filing some or all of the documents required in subsection (a).
- (c) The matrix must be filed within three (3) court days of the commencement of the case, failing which the case shall be dismissed without further notice. If the documents specified in paragraphs 13-2(a)(2)-(7) and, if applicable, 13-2(b) are not filed with the petition, the Court shall issue an order notifying the debtor and debtor's counsel that, if the missing documents are not filed within fifteen (15) days from the date of commencement of the case and the Court has not allowed a motion filed within that time to extend the time for filing the missing documents, the case may be dismissed pursuant to 11 U.S.C. § 109(g) at the expiration of that period.
- (d) A motion requesting an extension of time to file the documents required under this paragraph shall set forth the specific cause for the request, the amount of additional time requested, the date the petition was filed, and a proof of service evidencing that the motion was served on the chapter 13 trustee.
- (e) Any motion to amend a voluntary petition or statement shall be served upon all parties affected by the amendment and the chapter 13 trustee. The motion and proposed amendment shall be accompanied by a certificate of service identifying those parties served. A motion to amend to add a creditor to the debtor's schedules shall be served upon that creditor and the chapter 13 trustee. An amendment adding a creditor or party in interest shall be accompanied by 1) the fee prescribed by the Administrative Office of the United States Courts, if applicable, and 2) an amended matrix including the names and addresses of the added parties.

### **13-3. DISCLOSURE OF RELATED CASES**

The debtor shall disclose in the petition other previous or pending bankruptcy cases and adversary proceedings, whether filed in this or any other district, which are related to the bankruptcy case being filed. Related cases and adversary proceedings include all those involving:

1. a spouse or ex-spouse of the debtor; or
2. an affiliate, as defined in 11 U.S.C. § 101(2); or
3. an insider, as defined in 11 U.S.C. § 101(31); or
4. the same debtor using any aliases or fictitious names.

Failure to comply with these disclosure requirements may result in sanctions, including dismissal of the case pursuant to 11 U.S.C. § 109(g).

### **13-4. CHAPTER 13 PLAN**

- (a) Form of Plan. A chapter 13 plan shall conform to MLBR Official Local Form 3, with such alterations as may be appropriate to suit the circumstances.
- (b) Service of Plan. Concurrently with the filing of the plan, the debtor or the debtor's attorney shall cause a copy of the plan to be served by first class mail upon the chapter 13 trustee, all creditors of the debtor, all attorneys who have filed appearances and requested service of all pleadings, and other parties in interest. The debtor or his attorney shall file with the plan a certificate of service.
- (c) If a debtor proposes payments to creditors over a period that exceeds three (3) years, the debtor shall set forth in the plan the reasons for such

longer payment period.

### **13-5. SERVICE OF MOTIONS**

All motions and requests for orders must be served on the chapter 13 trustee, the debtor, the debtor's attorney, persons who have filed appearances and requested service of all pleadings, and all creditors with the following exceptions:

- 1) a motion for relief from the automatic stay shall be served on debtor, debtor's attorney, and all persons with an interest in or lien on the subject collateral;
- 2) a chapter 13 trustee's motion to dismiss shall be served on the debtor and the debtor's attorney;
- 3) a debtor's motion to dismiss or notice of conversion to chapter 7 or 11 when there have been no prior conversions shall be served on the chapter 13 trustee;
- 4) objections to claims shall be served on the chapter 13 trustee, the claimant, and the claimant's attorney.
- 5) objections to confirmation shall be served in accordance with paragraph 13-8.

### **13-6. ATTORNEYS**

- (a) An attorney who represents a debtor at the time a chapter 13 case is commenced or when a case under another chapter of the Bankruptcy Code is converted to chapter 13 has a continuing duty to represent the debtor in all matters, including the section 341 meeting and court hearings, until the occurrence of the earliest of the following:

- 1) dismissal of the case;
  - 2) closing of the case; or
  - 3) the entry of an order allowing the attorney to withdraw from further representation of the debtor.
- (b) If an attorney for a debtor is unable to contact the debtor in connection with any matter, the attorney shall file a statement informing the Court of this fact, which statement shall include the efforts the attorney has made to contact the debtor. The attorney shall serve a copy of the statement on the debtor at his or her last known address.
- (c) The chapter 13 trustee or a representative of the chapter 13 trustee shall be present at any hearing held in a chapter 13 case, unless excused for cause prior to the hearing.

**13-7. PROFESSIONAL FEES; PREPETITION RETAINERS**

- (a) Prepetition Retainers. The amount of any retainer received by debtor's counsel shall be included in the Statement of Attorney Compensation filed pursuant to Fed. R. Bankr. P. 2016(b).
- (b) Unless otherwise ordered by the Court, if debtor's counsel's total compensation prior to confirmation of a plan is \$2,500 or less, the disclosure of the compensation in the Rule 2016(b) Statement shall be sufficient notwithstanding compensation for post confirmation services in amount not exceeding \$500, and the filing of an itemized application for compensation shall be excused, unless the Court orders otherwise.
- (c) Application for Additional Attorney's Fees. An attorney who proposes to charge a debtor more than \$2,500 in the aggregate for legal services in a chapter 13 case prior to confirmation, or \$500 in the aggregate for such services after confirmation, shall file an application for compensation in

accordance with Fed. R. Bankr. P. 2016 and MLBR 2016-1. Unless otherwise ordered by the Court, debtor's Counsel shall serve a copy of the application on all creditors, parties requesting service of all pleadings, and the Chapter 13 trustee and shall file a certificate of Service to that effect with the application. If no objections are filed within twenty (20) days of service, the Court shall award fees in its discretion, with or without a hearing, in accordance with applicable law.

**13-8. OBJECTIONS TO CONFIRMATION**

- (a) Deadline for filing. Any objection to confirmation of a chapter 13 plan shall be filed no later than the later of (i) thirty (30) days after the first date set for the section 341 meeting or (ii) thirty (30) days after service of a modified plan, unless otherwise ordered by the Court.
- (b) Service of Objection. An objection to confirmation shall be filed with the Court and served on the chapter 13 trustee, the debtor, the debtor's attorney, and any other party or attorney who has filed an appearance and requested service of pleadings. The objection shall be accompanied by a certificate of service evidencing compliance with this requirement.

**13-9. SECTION 341 MEETING OF CREDITORS**

- (a) The Clerk shall serve on all creditors notice of the section 341(a) meeting of creditors and initial confirmation hearing date along with a proof of claim form in accordance with Fed. R. Bankr. P. 2002(a) and 2003(a).
- (b) If the debtor fails to appear at the section 341 meeting, the case may be dismissed upon motion of a party in interest pursuant to 11 U.S.C. § 109(g).
- (c) The debtor shall file any due but unfiled tax returns no later than the deadline for filing claims, unless the time to do so is extended by the Court. When the tax return is filed, the debtor shall file with the Clerk and serve on the chapter 13 trustee a notice of the filing of the return, which shall disclose the amount of the tax liability or the amount of the refund.

**13-10. AMENDMENTS TO PLAN PRIOR TO CONFIRMATION**

- (a) Amendments to a plan which do not adversely affect creditors may be made at or prior to the section 341(a) meeting without leave of court by a separate pleading entitled "Modification of Plan," which shall be filed with the Court and served on the chapter 13 trustee and any party or attorney who has filed an appearance and requested service of pleadings in the case. The modification shall be accompanied by a certificate of service. If no objections to the modification are filed within ten (10) days after service, the Court shall consider confirmation of the plan as amended.
- (b) Where an amendment to a plan adversely affects creditors, the debtor shall file with the Court an amended plan and a motion to approve the amended plan. The debtor shall serve a copy of the amended plan and motion to approve the amended plan on the chapter 13 trustee, all creditors, and all parties and attorneys who filed appearances and request for service of all pleadings in the case. The motion shall be accompanied by a certificate of service. If no objections to the motion to approve the amended plan or the amended plan are filed within thirty (30) days of the filing of the certificate of service, the Court may allow the motion without a hearing.

**13-11. CONFIRMATION**

- (a) Where no objection to confirmation of a chapter 13 plan is filed within the time limits established by paragraph 13-8(a) of this order, the Court may enter an order confirming the plan without a hearing.
- (b) Where a timely objection to a chapter 13 plan is filed, the Court shall hold a hearing on the objection. The Clerk shall schedule a confirmation hearing and advise the objecting party and/or its counsel of the hearing date. The objecting party shall provide notice of the confirmation hearing to the debtor, debtor's counsel, all creditors, interested parties, and all parties who filed appearances and requested service of all pleadings, and shall file a certificate of service regarding the notice of the hearing.

- (c) The chapter 13 trustee shall submit a proposed order of confirmation to the Court in conformity with MLBR Official Local Form 4 within twenty (20) days after the later of 1) the Court's order overruling any objection to confirmation; 2) the withdrawal of an objection to confirmation; or 3) in the event that there are no objections to confirmation, the deadline for filing objections to confirmation. The chapter 13 trustee shall attach a copy of the plan to the proposed order of confirmation. The chapter 13 trustee shall serve a copy of the proposed order of confirmation on the debtor's attorney, the debtor, and all parties and attorneys who have filed appearances and requests for service of pleadings in the case.

## **13-12. AMENDMENTS TO PLAN AFTER CONFIRMATION**

- (a) A debtor who seeks to amend a chapter 13 plan after confirmation shall do so by filing a motion to amend the plan with a copy of the proposed amended plan attached. The motion to amend shall include a summary and statement of the reason for the amendment. In conjunction with the motion to amend, the debtor shall file updated schedules I and J if plan payments are changing under the terms of the amended plan. The chapter 13 trustee, in his or her discretion, may schedule a new section 341 meeting with respect to the amended plan.
- (b) The debtor shall serve a copy of the motion, amended plan, updated schedules I and J, and the amended statement on the chapter 13 trustee, all creditors, and parties and attorneys who have filed appearances and requests for service of pleadings in the case. In the event that the debtor proposes more than one amended plan, each amended plan shall be titled "First Amended Plan," "Second Amended Plan," and so on as may be appropriate.
- (c) The Court shall not consider any amendments to a plan unless they are set forth in an amended plan that conforms to MLBR Official Local Form 3.
- (d) Approval of an amended plan after confirmation of a prior plan may be granted without a hearing if no objections are timely filed. Objections to an Amended Plan shall be filed no later than thirty (30) days from the date of service of the motion to amend. In the event that no objections to the motion are timely filed, the Court may, in its discretion, allow the motion to amend without a hearing. If a party in interest files a timely objection to the motion, the Court shall set the motion and objection for hearing. The

objecting party shall serve a notice of hearing on the debtor, debtor's counsel, all creditors, the chapter 13 trustee, and all parties who filed appearances and requested service of pleadings at least seven (7) days before the hearing date, and shall file a certificate of service.

- (e) The trustee shall submit a proposed order confirming an amended plan in conformity with MLBR Official Form 4 within twenty (20) days after the Court allows the motion to amend the plan. The chapter 13 trustee shall attach a copy of the amended plan to the proposed order of confirmation. The chapter 13 trustee shall serve a copy of the proposed order confirming an amended plan on the debtor, debtor's attorney, and all parties and attorneys who have filed appearances and requests for service of pleadings in the case.

### **13-13. PROOFS OF CLAIM AND OBJECTIONS**

- (a) The provisions of MLBR 3007-1(a), (b) and (c) shall apply to chapter 13 cases. All creditors must timely file a proof of claim to participate in distributions under the plan.
- (b) Objections to claims shall be served and filed with the Court within thirty (30) days after the deadline for filing proofs of claims or within such additional time as the Court may allow upon the filing of a motion to extend time and for good cause shown. Any claim to which a timely objection is not filed shall be deemed allowed and paid by the chapter 13 trustee in accordance with the provisions of the confirmed plan. The Court, in its discretion, may overrule an untimely objection to a proof of claim.
- (c) If the Court has determined the allowed amount of a secured or unsecured claim in the context of a valuation hearing pursuant to 11 U.S.C. § 506, the debtor or trustee need not file an objection to a secured creditor's proof of claim that varies from the Court's determination, and the chapter 13 trustee shall make distribution in accordance with the Court's order.

**13-14. SALE OF ESTATE PROPERTY**

- (a) Any sale of the property of the estate outside the ordinary course of business, including but not limited to, the debtor's principal residence, real property, or other property must be approved by the Court after notice and a hearing. A motion for such approval shall be made in accordance with 11 U.S.C. § 363, Fed. R. Bankr. P. 4001 or 6004, and MLBR 6004-1, as applicable, and the notice of sale shall conform to MLBR Official Local Form 2A. The motion to sell shall include a proposed distribution of the proceeds of the sale. All motions to sell shall be served on the chapter 13 trustee, all creditors, all parties who have filed appearances and any other entity as the Court may direct.
  
- (b) If an appraiser or real estate broker is involved in the sale, the debtor must obtain Court authority to employ the appraiser or broker by way of motion. The motion must be accompanied by an affidavit of disinterestedness signed by the broker and comply with the requirements of MLBR 2014(a)-1 and 6005-1.

**13-15. BORROWINGS OR REFINANCING OF ESTATE PROPERTY**

The provisions and requirements of MLBR 4001-2 shall apply in chapter 13 cases. Any motion for approval of a borrowing or refinancing shall include all the material terms of the proposed credit arrangement. A copy of any borrowing agreement shall be attached to the motion.

**13-16. MOTIONS FOR RELIEF FROM STAY**

- (a) In addition to the requirements of MLBR 4001-1, a motion for relief from the automatic stay shall provide the following information:
  - 1. the date of filing of the chapter 13 petition;

2. the total amount owed to the moving party;
3. the date of confirmation of the plan (if the plan has been confirmed);
4. the amount of the monthly payment at issue;
5. the total amount of the post-petition or post-confirmation payments (principal and interest) in default as of the date of the filing of the motion and due as of the anticipated date of hearing, and the total amount of any other post-petition charge due or anticipated as of each of these dates;
6. the total amount of the prepetition arrearage;
7. the identity and an estimation of the amounts due all lienholders, in order of their priority;
8. an opinion of the value of the property (by declaration), if such value is an issue to be determined; and
9. if the motion for relief from stay is based on defaults in payments to or through the chapter 13 trustee, the motion must show that the debtor has not made the payments to the chapter 13 trustee.

The Court, in its discretion, may deny a motion for relief from stay in the absence of an objection, if the above information is not set forth in the motion.

(b) Stipulations Relating to Motions for Relief from Stay.

A motion for approval of a stipulation relating to a motion for relief from stay between the debtor and a party that has a lien on property of the estate shall be filed with the stipulation and served on the chapter 13 trustee, debtor's attorney, any other entity with an interest in the property, and any party requesting service of pleadings in the case. Unless

otherwise ordered by the Court, the moving party shall serve the stipulation together with a notice that objections to the approval of the stipulation must be filed within fifteen (15) days of the mailing of the notice, unless the Court fixes a different time. If no objection is filed, the Court may approve the stipulation without a hearing. The Court, in its discretion, may approve a stipulation that is not accompanied by a motion for its approval.

- (c) A stipulation resolving a motion for relief from stay shall be served on the chapter 13 trustee, any other entity with an interest in the property, including any lienholder or co-owner, and any attorney who has filed an appearance requesting service of pleadings in the case. The debtor's attorney (or the debtor, if appearing pro se) shall file a certificate of service reflecting compliance with this rule. Unless otherwise ordered by the Court, an objection to a stipulation resolving a motion for relief from stay shall be filed within fifteen (15) days from the date of service of the stipulation. Notwithstanding this requirement, the Court, in its discretion, may cancel a hearing scheduled on a motion for relief from stay which is the subject of a stipulation and may approve a stipulation resolving a motion for relief from stay without a hearing.

#### **13-17. MOTIONS TO DISMISS AND CONVERT**

- (a) A party who files a motion to dismiss a chapter 13 case shall serve the motion on the debtor, debtor's attorney, all creditors, any party who filed an appearance in the case, and the chapter 13 trustee, and shall file a certificate of service. The motion shall state with particularity the cause for dismissal. A party who opposes a motion to dismiss shall file a response to the motion to dismiss within twenty (20) days of service of the motion. If no response to the motion to dismiss is filed, the Court, in its discretion, may allow the motion without a hearing.
- (b) In a case not previously converted under 11 U.S.C. §§ 706, 1208, or 1112, a debtor electing to have the case dismissed may file a motion to voluntarily dismiss the case, pursuant to 11 U.S.C. § 1307, which motion shall be served on the chapter 13 trustee. The debtor's motion to dismiss shall contain a statement as to whether the case has been converted previously. If the Court enters an order dismissing the case, the Clerk shall provide

timely notice of the dismissal to all creditors on the matrix and to the chapter 13 trustee.

- (c) If the Court denies confirmation of the debtor's plan, the case shall be dismissed by the Court without further notice unless, within ten (10) days after denial of confirmation, or a different time fixed by the Court:
1. the debtor files an amended plan;
  2. the debtor moves to convert the case to one under another chapter of the Bankruptcy Code;
  3. the debtor files a Motion for Reconsideration or appeals the denial of confirmation, and obtains a stay of the dismissal order; or
  4. the Court otherwise orders.

**13-18. CONVERSION FROM CHAPTERS 11 OR 7 TO CHAPTER 13**

Within fifteen (15) days after conversion of a case from chapter 11 or chapter 7 to chapter 13, the debtor shall file with the Court those documents required by paragraph 13-2 of this order and serve copies on the chapter 13 trustee.

**13-19. COMMENCEMENT AND CONTINUANCE OF PAYMENTS TO THE CHAPTER 13 TRUSTEE; DISMISSAL FOR FAILURE TO MAKE REQUIRED PAYMENTS**

- (a) Payments to the chapter 13 trustee pursuant to either 11 U.S.C. § 1326(a) or the terms of a confirmed plan shall be made by certified check or money order. Each payment shall be legibly marked with the bankruptcy case number and the name of the debtor as it appears in the caption of the case.

- (b) Payments to the chapter 13 trustee pursuant to either 11 U.S.C. § 1326(a) or the terms of a confirmed plan shall continue until the case has been dismissed, the debtor has completed all payments required by the plan, the debtor has moved for either a hardship discharge pursuant to 11 U.S.C. § 1328(b) or voluntary dismissal, or the debtor has requested that the case be converted to a case under another chapter of the Bankruptcy Code.
- (c) The Court will not consider, allow or approve motions or stipulations for direct payment to the chapter 13 trustee from the debtor's employer or any other entity.
- (d) In the event that a chapter 13 case is dismissed or converted prior to confirmation of the plan, the chapter 13 trustee shall be entitled to retain from any monies collected from the debtor the amount of \$150.00, which shall constitute an administrative expense pursuant to 11 U.S.C. § 503(b).

#### **13-20. DISTRIBUTION**

Unless otherwise directed by the Court, the distribution of any proceeds pursuant to a confirmed plan shall be mailed to the address of the creditor as designated pursuant to Fed. R. Bankr. P. 2002(g).

#### **13-21. CHAPTER 13 TRUSTEE'S FINAL ACCOUNT**

When the chapter 13 trustee determines that the plan has been completed, the trustee shall file and serve a final report and account on all creditors with allowed claims, all attorneys who have filed appearances and requested service of pleadings in the case, the debtor, and debtor's counsel. The report shall state the allowed amount of each claim and the amount paid on each claim. The chapter 13 trustee shall give notice that any objection to the final report and account shall be filed within thirty (30) days after service. The chapter 13 trustee shall file a certificate of service reflecting service of the final report and account and objection deadline. In the absence of a timely filed objection, the Court may approve the final report and account without a hearing.

**13-22. ORDER OF DISCHARGE**

- (a) The order of discharge shall include findings that
1. all allowed claims have been fully paid in accordance with the provisions of the confirmed plan; or
  2. with respect to secured claims which continue beyond the term of the plan, any pre-petition or post-petition defaults have been cured and such claims are in all respects current, with no escrow balance, late charges, costs or attorneys' fees owing.
- (b) The order of discharge shall direct that
1. creditors who held secured claims which were fully paid execute and deliver to the debtor a release or other discharge certificate suitable for recording; and
  2. creditors who hold secured claims which continue beyond the term of the plan take no action inconsistent with the findings provided for in subsection (a).

**APPENDIX 2**

**EXPENSES**

## APPENDIX 2

### EXPENSES

In lieu of calculating the actual cost of the following expenses, the applicant may request the rates of reimbursement set forth below:

- |       |                                   |  |
|-------|-----------------------------------|--|
| (i)   | copies                            | \$0.15 per page  |
| (ii)  | incoming telecopier transmissions | \$0.15 per page  |
| (iii) | auto mileage                      | at the rate set forth from time to time pursuant to 41 CFR § 301-4.2 |

## **APPENDIX 3**

### **FILING FEES**

## APPENDIX 3

### FILING FEES

(a) New Case, Ancillary Proceeding and Case Reopening

The following fees apply to the filing or reopening of cases:

(1)	Chapter 7 (Filing)	\$ 200.00
(2)	Chapter 7 (Reopening)	\$ 155.00
(3)	Chapter 9	\$ 330.00
(4)	Chapter 11 Non-Railroad	\$ 830.00
(e)	Chapter 11 Non-Railroad (Reopening)	\$ 800.00
(6)	Chapter 11 Railroad	\$1,030.00
(7)	Chapter 12	\$ 230.00
(8)	Chapter 13	\$ 185.00
(9)	Chapter 13 (Reopening)	\$ 155.00
(10)	11 U.S.C. § 304 (Ancillary Proceeding)	\$ 830.00

- (11) The fee due upon conversion from a chapter 7 or chapter 13 case to a chapter 11 case is \$645.00.

(b) Motions

- (1) The fee for the filing of a motion for relief from the automatic stay under 11 U.S.C. § 362(d) is \$75.00.
- (2) The fee for the filing of a motion to withdraw the reference is \$75.00.
- (3) The fee for the filing of a motion to compel abandonment of property of the estate is \$75.00.
- (4) The fee for the filing of a motion to convert or a notice of conversion to a chapter 7 case is \$15.00.

(c) Adversary Proceedings

The filing fee for a complaint is \$150.00, except that no fee is required if the United States or the debtor in a chapter 7 or chapter 13 case is the plaintiff. The debtor in possession in a chapter 11 case must pay the filing fee. If a trustee in a case under Title 11 is the plaintiff, the fee shall be payable only from the estate to the extent of available funds. The Court may, upon motion of a trustee, defer payment of the filing fee.

(d) Miscellaneous Fees

- |     |   |          |
|-----|---|----------|
| (1) | Notice of Appeal from Final Order   | \$105.00 |
| (2) | Cross Appeal  | \$100.00 |
| (3) | Notice of Appeal from Interlocutory Order<br>(If a motion for leave to appeal is allowed, | \$ 5.00  |

an additional \$100.00 will be due.)

(4)	Amendment to Schedules D, E and F or List of Creditors	\$ 20.00
(5)	Clerk's Certificate	\$ 15.00
(6)	Records Search: (If copies are requested, a copy charge also will be assessed.)	\$ 20.00
(7)	Retrieval of Closed File from Federal Records Center	\$ 35.00
(8)	Certification of Document	\$ 7.00
(9)	Copies per page	\$ .50
(10)	Registering a Judgment from Another District	\$ 30.00
(11)	Reproduction of a Tape Recording	\$ 20.00
(12)	Check Returned Due to Insufficient Funds	\$ 35.00

**APPENDIX 4**

**NOTICES TO THE UNITED STATES OF AMERICA  
AND THE COMMONWEALTH OF MASSACHUSETTS**

## APPENDIX 4

### NOTICES TO THE UNITED STATES OF AMERICA AND THE COMMONWEALTH OF MASSACHUSETTS

- (a) Whenever notice is required to be given to the Internal Revenue Service, it shall be mailed to:

Internal Revenue Service  
Special Procedures Function STOP 20800  
P.O. Box 9112  
JFK Building  
Boston, MA 02203

- (b) Whenever notice is required to be given to the Securities and Exchange Commission, it shall be mailed to:

Securities and Exchange Commission  
Boston District Office  
73 Tremont Street, 6th Floor  
Boston, MA 02108

Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington, DC 20549

- (c) Whenever notice is required to be given to the United States Attorney, it shall be mailed to:

United States Attorney  
John Joseph Moakley United States Courthouse  
One Courthouse Way, Suite 9200  
Boston, MA 02210

(d) Fed. R. Bankr. P. 7004(a)(4) governs service of process upon the United States in adversary proceedings.

(e) Whenever notice is required to be given to the Massachusetts Department of Revenue, it shall be mailed to:

Massachusetts Department of Revenue  
Bankruptcy Unit  
P.O. Box 55484  
Boston, MA 02205

(f) Whenever notice is required to be given to the Massachusetts Division of Employment and Training, it shall be mailed to:

Commonwealth of Massachusetts  
Division of Employment and Training  
Attn: Chief Counsel  
Hurley Bldg - Government Center  
Boston, MA 02114

(g) Whenever notice is required to be given to the Massachusetts Attorney General, it shall be mailed to:

Office of the Attorney General  
Commonwealth of Massachusetts  
One Ashburton Place  
Boston, MA 02108



**APPENDIX 5**

**COURT DIVISIONS AND CLERK'S OFFICE**

## APPENDIX 5

### COURT DIVISIONS AND CLERK'S OFFICE

#### (a) Divisions

The District of Massachusetts shall contain the following two (2) divisions:

- (1) Eastern Division: The Eastern Division shall consist of (A) the counties of Barnstable, Bristol, Dukes, Nantucket, Norfolk, Plymouth, and Suffolk,  
(B) the county of Essex, with the exception of the towns specifically assigned to the Western Division in section (2), and (C) the following towns in Middlesex County: Arlington, Ashland, Belmont, Burlington, Cambridge, Everett, Framingham, Holliston, Lexington, Lincoln, Malden Medford, Melrose, Natick, Newton, North Reading, Reading, Sherborn, Somerville, Stoneham, Wakefield, Waltham, Watertown, Wayland, Weston, Wilmington, Winchester and Woburn.

The address of the Eastern Division is: Clerk, U.S. Bankruptcy Court, 1101 Thomas P. O'Neill Jr. Federal Building, 10 Causeway Street, Boston, MA 02222-1074.

- (2) Western Division: The Western Division shall consist of (A) the counties of Berkshire, Franklin, Hampden, Hampshire, and Worcester, (B) the county of Middlesex, with the exception of the towns specifically assigned to the Eastern Division in section (1) and the following towns in Essex County: Andover, Boxford, Bradford, Haverhill, Lawrence, Methuen, and North Andover.

The address of the Western Division is: Clerk, U.S. Bankruptcy Court, Donohue Federal Building, 595 Main Street, Worcester, MA 01608-2076.

#### (b) Emergency Filings

Filings can be made before 8:30 AM or after 4:30 PM on court days or on

weekends or holidays for cause and by prior arrangement or in emergency circumstances, as determined by the Clerk or his or her designee. With respect to Eastern Division cases, parties should contact the Clerk's office at (617) 565-8950 and press (0) or 617)565-8956 during business hours. With respect to Western Division cases, parties should contact the Clerk's office in Worcester at (508)770-8900 during business hours. At other times, parties should contact the Clerk or his or her designee by calling **beeper no. (800)759-8888 and enter PIN # 1309280.**

(c) Emergency Closings or Delayed Opening

Information as to an emergency closing or delayed opening of the Court is available by calling 1-866-419-5695 (Toll Free).



**APPENDIX 6**

**APPLICATION FOR COMPENSATION  
SAMPLE SUMMARY FEE CHART**

**APPENDIX 6**

**APPLICATION FOR COMPENSATION  
SAMPLE SUMMARY FEE CHART**

<u>NAME</u>	<u>TOTAL HOURS</u>	<u>HOURLY RATE</u>	<u>TOTAL AMOUNT</u>
John H. Jones (JHJ)	100	\$150.00	\$15,000.00
John H. Jones (JHJ)*	25	180.00	4,500.00
Mary M. Drake (MMD)	50	100.00	5,000.00
Thomas Day (TD) Paralegal	20	35.00	700.00
Jane Knight (JK) Paralegal	10	30.00	300.00
TOTAL	<hr/> 205	<hr/>	<hr/> \$25,500.00

\*John H. Jones' hourly rate was increased to \$180.00 on June 1, 1995.

**APPENDIX 7**

**APPLICATION FOR COMPENSATION  
SAMPLE NARRATIVE OF SERVICES RENDERED**

## APPENDIX 7

### APPLICATION FOR COMPENSATION SAMPLE NARRATIVE OF SERVICES RENDERED

#### Part 1: Filing Petition and Schedules

John Jones prepared the Chapter 11 Petition and reviewed the Schedules with client. Jane Knight filed the Petition at Court.

	<u>Hours</u>	<u>Rate</u>	
John H. Jones	5.0	\$150.00	\$750.00
Jane Knight	0.5	\$ 30.00	<u>\$ 15.00</u>
			\$765.00

#### Part 2: Contesting Motion for Relief

The Second National Bank filed a Motion for Relief from Stay. The Bank had a mortgage on the Debtor's store and was oversecured. John H. Jones supervised the work of a junior associate, Mary M. Drake, and obtained needed information from the Debtor. Mary M. Drake prepared a response to the Motion, attended the hearing, negotiated with the Bank's attorney, and prepared and filed an adequate protection stipulation.

	<u>Hours</u>	<u>Rate</u>	
John H. Jones	3.0	\$150.00	\$ 450.00
Mary M. Drake	50.0	100.00	<u>5,000.00</u>
			\$5,450.00

#### Part 3: Collecting Accounts Receivable

The Debtor had one hundred account debtors, many of whom claimed that the merchandise sold was defective. Jane Knight organized the mailing of the collection

letters and the docketing of the responses. Mary M. Drake made follow-up calls and supervised the work of Jane Knight. This resulted in \$16,000.00 being collected.

John H. Jones filed suit against twenty one account debtors. He settled seventeen adversary proceedings, without trial but after service of interrogatories and several motions, for \$45,877.90. The settlements averaged 80% of the value of the claims. Thomas Day followed up on settlements to insure that the payments due were made.

John H. Jones and Mary Drake tried the remaining four cases, in which the debtor sought \$40,000.00 and the defendants claimed offsets of \$35,000.00. On average, each trial lasted four hours and required ten hours in preparing legal memoranda and interviewing witnesses. The debtor prevailed in three cases, obtaining judgments in the total amount of \$29,000.00, but lost the fourth case. John Jones spent another seven hours collecting upon the judgments in two cases by obtaining an execution and causing service of the levy. In the third case, he filed an equity bill for a receiver. Thomas Day spent three hours filing court papers and confirming court dates.

	<u>Hours</u>	<u>Rate</u>	
John H. Jones	60	\$180.00	\$10,800.00
Mary M. Drake	110	\$100.00	\$11,000.00
Thomas Day	40	\$ 30.00	\$ 1,200.00
Jane Knight	40	\$ 40.00	<u>\$ 1,800.00</u>
			\$24,800.00

Part 4: Miscellaneous

In addition to the foregoing, the Applicant performed a variety of miscellaneous services related to the principal matters, including (1) responding to inquiries from creditors; (2) meetings with the creditors' committee; (3) responding to U.C.C. § 2-702 demands; and (4) meetings with the Debtor concerning ongoing business operations.

	<u>Hours</u>	<u>Rate</u>	
John Jones	15	\$180.00	\$2,700.00

Part 5: Plan and Disclosure Statement/Confirmation

Mary M. Drake prepared the plan and the disclosure statement. John H. Jones spent many sessions negotiating the terms of the plan with counsel the creditors' committee; he attended the hearing on the disclosure statement and made revisions to meet concerns of the Court and the United States Trustee. Thomas Day updated addresses of creditors and supervised the mailing of the ballots. Jane Knight tallied the vote and wrote a report to the Court. John Jones attended the confirmation hearing.

	<u>Hours</u>	<u>Rate</u>	
John H. Jones*	70	\$180.00	\$12,600.00
Mary M. Drake	6	\$100.00	\$ 600.00
Jane Knight	2	\$ 40.00	\$ 80.00
Thomas Day	10	\$ 30.00	<u>\$ 300.00</u>
Total			\$13,580.00

\* This work was done after John H. Jones' rate was raised to \$180.00 per hour on June 1, 1995.

## SUMMARY

<u>Name</u>	<u>Total Hours</u>	<u>Hourly Rate</u>	<u>Total Requested</u>
John H. Jones (JHJ)	8.0	\$150.00	\$ 1,200.00
John H. Jones (JHJ)*	145.0	\$180.00	\$26,100.00
Mary M. Drake (MMD)	166.0	\$100.00	\$16,600.00
Jane Knight (JK)	0.5	\$ 30.00	\$ 15.00
Jane Knight (JK)**	47.0	\$ 40.00	\$ 1,880.00
Thomas Day (TD)	<u>50.0</u>	\$ 30.00	<u>\$ 1,500.00</u>
Total	384.5 h		\$47,295.00

\* John Jones' hourly rate increased from \$150.00 to \$180.00 on June 1, 1995.

\*\* Jane Knight's hourly rate increased from \$30.00 to \$40.00 on June 1, 1995.



**APPENDIX 8**

**ELECTRONIC FILING RULES**

## APPENDIX 8

### ELECTRONIC FILING RULES

#### **RULE 1. SCOPE OF ELECTRONIC FILING**

All cases open as of the effective date of this rule or filed thereafter will be administered through the Electronic Case Filing System (the "ECF System"). Except as expressly provided or in exceptional circumstances, each Registered User (as defined in Rule 2(a) below) shall, on and after ninety (90) days from the effective date of his or her registration, file with the Court electronically all petitions, motions, applications, memoranda of law or other pleadings and documents (collectively hereinafter referred to as "documents").

#### **RULE 2. ELIGIBILITY, REGISTRATION, PASSWORDS**

(a) Registered User

The term "Registered User" as employed in these rules shall be deemed to mean an individual who has registered to use this Court's ECF System, pursuant to subsection (b) hereof.

(b) Eligibility

Attorneys admitted to the bar of the United States District Court for the District of Massachusetts (including those admitted pro hac vice, pursuant to Local Rule 9010-1(b)), attorneys representing the United States of America or any state, the United States trustee and his/her assistants, Chapter 7, 11, 12, or 13 trustees, and others as the Court may allow in its discretion on prior motion and order, may register as Registered Users of the ECF System after completion of such electronic filing training as the Clerk of this Court may establish and require from time to time.

(c) Registration

Application for registration as a Registered User shall be made on a form

prescribed by the Clerk as amended from time to time and posted on the Court's website, [www.mab.uscourts.gov](http://www.mab.uscourts.gov). All registration application forms shall be mailed or delivered to the Office of the Clerk, United States Bankruptcy Court, 10 Causeway Street, 11<sup>th</sup> Floor, Boston, Massachusetts 02222, ATTN: FINANCE, PERSONAL AND CONFIDENTIAL. Each approved registrant will receive a notice from the Clerk to retrieve from the Clerk's Office (in Boston or Worcester, as designated by the registrant) a sealed envelope containing a log-in name and assigned password. Only the applicant or an authorized representative may retrieve the envelope; except that, at the written request of an approved registrant, the Clerk may email the log-in name and password to the registrant. The Clerk is authorized to employ such further precautions which in the Clerk's judgment will ensure security in the distribution of passwords. Each Registered User shall be entitled to only one password, except that additional passwords may be issued to a single user for good cause shown and in the discretion of the Clerk.

(d) Withdrawal or Amendment of Registration

A Registered User who wishes to withdraw or amend a registration shall email a request for such change to the Clerk on a form prescribed by the Clerk as amended from time to time and posted on the Court's website, [www.mab.uscourts.gov](http://www.mab.uscourts.gov).

(e) Security

Registration constitutes a Registered User's agreement to protect the security of his or her assigned password and immediately notify the Clerk if the Registered User learns that the security of the password has been compromised. No Registered User shall knowingly permit the password to be utilized by anyone other than an authorized agent of the Registered User. Upon notice to the Clerk that a password has been compromised, the Clerk shall promptly provide a substitute password to the Registered User.

(f) Waivers

Registration constitutes the Registered User's: (1) agreement to receive documents electronically and waiver of the right to receive notice by any other means; and (2) consent to service of all documents electronically and waiver of the right to service by any other means, excepting only service of process in an

adversary proceeding or with respect to an involuntary petition, or as otherwise ordered by the Court. The aforesaid waiver of service and notice by non-electronic means shall include waiver of notice by first class mail of the entry of an order or judgment under Fed. R. Bank. P. 9022.

(g) Involuntary Termination of Registration; Sanctions

On notice from the Clerk that a Registered User and/or his or her agents has/have repeatedly and/or egregiously failed to comply with the procedures established by the Court for use of the ECF System or failed to comply with reasonable password security precautions, the Court may, after notice and hearing, sanction a Registered User for such failure, including, without limitation, by suspending the Registered User from use of the ECF System.

**RULE 3. CONSEQUENCES OF ELECTRONIC FILING**

(a) Filing and Entry

Transmission of a document to the ECF System consistent with these rules, together with the transmission of a Notice of Electronic Filing from the Court, constitutes the filing of the document for all purposes of the Federal Rules of Bankruptcy Procedure and the local rules of this Court, and constitutes entry of the document on the docket kept by the Clerk pursuant to Fed. R. Bank. P. 5003.

(b) Official Record

When a document has been filed electronically, the official record is the electronic recording of the document as stored by the Court, and the filing party is bound by the document as filed. A document filed electronically is deemed filed on the date and the time stated on the Notice of Electronic Filing from the Court.

(c) Filing Deadline

A document may be filed at any time, except that:

- 1) where the Court orders that filing must be completed by a specific date and time, filing a document electronically does not alter the filing deadline for that document; and
- 2) where the Court orders that filing must be completed by a specific date but does not specify the time, entry of the document into the ECF System must be completed before 4:30 p.m. Eastern Standard (or Daylight, if applicable) Time in order to be deemed timely filed.

**RULE 4. ENTRY OF COURT ORDERS**

- (a) The Clerk shall enter all orders, judgments, and proceeding memos on the docket kept by the clerk under Fed. R. Bankr. P. 5003 and 9021 in electronic format. Any order filed electronically without the original signature of a judge shall have the same force and effect as if the judge had affixed his or her signature to a paper copy of the order.
- (b) A Registered User submitting a document electronically that requires a judge's signature including, without limitation, a proposed order or stipulation, must submit the document in PDF format to the Clerk of the Court.

**RULE 5. ATTACHMENTS AND EXHIBITS**

- (a) If the exhibit(s) to any document constitute(s) more than 50 pages in the aggregate, the exhibit(s) must be filed separately from the underlying document. In such event, the Registered User must file with the underlying document (a) a list of all of the exhibits, identifying clearly the subject matter of each exhibit, and (b) a summary of the content of each exhibit of 50 or more pages in length. If any recipient is unable to open an exhibit for any reason, it is the responsibility of the recipient to notify the transmitting Registered User of the recipient's inability to open the exhibit and to request paper copies. The Registered User shall respond promptly to any such request.

- (b) Exhibits may, but need not, be attached to Proofs of Claim when filed electronically. The claimant shall promptly provide any party in interest all exhibits upon request.

## **RULE 6. SEALED OR IMPOUNDED DOCUMENTS**

Any motion to seal or impound a document, pursuant to MLBR 9018-1, and the subject document, shall not be filed electronically, unless specifically authorized by the Court. In the event that the motion to seal or impound is granted, the Court shall determine the extent to which the motion and/or the document(s) shall be electronically filed.

## **RULE 7. RETENTION REQUIREMENTS**

- (a) Unless the Court orders otherwise, all electronically filed documents, (including, without limitation, affidavits or a debtor's petition, schedules, statement of affairs, or amendments thereof) requiring signatures under the penalties of perjury shall be maintained in paper form by the Registered User until five (5) years after the closing of the case. The declarant shall affix his or her signature in each place where indicated in the paper form and shall also execute in paper form a Declaration Re: Electronic Filing in the form of Official Form 7, all to be retained by the Registered User as set forth herein. Said documents shall thereafter be deemed property of the Court and not property of the declarant. The Registered User must produce all such original documents for review or filing at the request of a party in interest or order of the Court.
- (b) Notwithstanding subsection (a) above, any page of a document containing a signature under the penalties of perjury shall be filed with the Court as an imaged, and not electronically created, document, together with or in addition to the document electronically filed with the Court.

## **RULE 8. SIGNATURES**

- (a) The user log-in and password required to submit documents to the ECF System serve as the Registered User's signature on all electronic documents filed with the Court. They also serve as a signature for purposes of Fed. R. Bankr. P. 9011, the Federal Rules of Bankruptcy Procedure, the local rules of this Court, and any other purpose for which a signature is required. Electronically filed documents must set forth the name, address, telephone number, email address of a Registered User and, if an attorney, his or her BBO or PHV number (see MBLR 9010-3(b)). In addition, the document must include a signature block where the name of the Registered User is typed, but preceded by an "/s/," or is set forth as an imaged or electronically created signature.
- (b) Where an electronically filed document sets forth the consent of more than one party, the additional consents may be supplied by: (1) a scanned document containing all of the necessary signatures; or (2) a representation that the Registered User has authority to consent on behalf of the other parties who are purported signatories to the document; or (3) a notice of endorsement filed by the other signatories no later than three business days after filing of the document; or (4) any other manner approved by the Court.
- (c) All electronic documents filed after the commencement of the case must contain the case caption and number.

#### **RULE 9. SERVICE OF DOCUMENT BY ELECTRONIC MEANS**

- (a) Transmission by the Court of the "Notice of Electronic Filing" constitutes service or notice of the filed document, except that persons not deemed to have consented to electronic notice or service are entitled to conventional notice or service of any electronically filed document according to the Federal Rules of Bankruptcy Procedure and the local rules.
- (b) Service by electronic transmission shall be deemed equivalent to service by mail for the purposes of Fed. R. Bankr. P. 9006(f).

#### **RULE 10. NOTICE OF COURT ORDERS AND JUDGMENTS**

Upon the entry of an order or judgment in a case or an adversary proceeding, the Clerk will transmit notice to Registered Users in the case or adversary proceeding in electronic form. Transmission of a Notice of Electronic Filing constitutes the notice required by Fed.R.Bankr.P. 9022. The Clerk shall give conventional notice to a person who has not consented to electronic service in accordance with the Federal Rules of Bankruptcy Procedure.

#### **RULE 11. TECHNICAL FAILURES**

A Registered User whose filing is made untimely as a result of a technical failure may seek appropriate relief from the Court.

#### **RULE 12. PUBLIC ACCESS**

A person may view electronically filed documents that have not been impounded by the Court at the Clerk's Office. A person may also access the ECF System at the Court's Internet site, [www.mab.uscourts.gov](http://www.mab.uscourts.gov), by obtaining a PACER login and password. A person who has PACER access may retrieve dockets and documents. Only a Registered User may file documents electronically.

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**OFFICIAL LOCAL FORM 1**

**MATRIX LIST OF CREDITORS**

## OFFICIAL LOCAL FORM 1

### MATRIX LIST OF CREDITORS

This form is a sample master mailing matrix creditor list required to be filed with a bankruptcy petition. **This form can be printed out or submitted on a 3½” floppy disk, following the same guidelines for both.** The following format must be observed:

1. Listing must be in a single column containing as many pages as are required to list all creditors. Page numbers or page headings must not be included in the list.
2. The margins at the top and bottom of the page must be at least one inch each.
3. The matrix shall be produced with a quality computer printer or typewriter. If a dot matrix printer is used, it should have near letter quality. Standard type size shall be used. The name and address of each creditor must not consist of more than five (5) lines. At least one blank line shall be inserted between each creditor listing.
4. If not filed on disk, an original of the matrix or amended matrix must be filed with the Clerk's Office; because our optical character reader will not read a faxed document, a matrix cannot be filed by fax.
5. **If submitting matrix on a floppy disk, please save the file as an ASCII (DOS) text file, and write the debtor's name and town on the disk.**

#### EXAMPLE:

Donut and Coffee National Bank  
Post Office Box 3391  
Beaumont, TX 77703

Pyramid Investing Corp.  
3001 Ghost Street  
Reno, NV 86068

Hammer and Anvil Mediation, Inc.  
10 Garrison Blvd.  
Los Angeles, CA 90905

Spotted Owl Furniture  
83 Timber St.  
Lakewood, CA 9832

### **SPECIFICATIONS FOR FLOPPY DISK CREDITOR MATRIX**

The following format for a floppy disk containing creditors' names and addresses must be observed:

1. Data must be in ASCII format.
2. Each creditor name and corresponding address ("record") must be on a single line.
3. Each record may consist of up to five (5) fields of data.
4. Each field cannot exceed forty (40) characters. The field may contain fewer characters or be nonexistent.
5. Each field must end with a "separator." The preferred separator is the pipe/vertical bar symbol (|). Do not use a letter, digit, or underscore as the separator.

#### **EXAMPLE:**

John Dee|1846 Main Street|Boston, MA 02222|

Hook, Line, and Sinker, P.C.|P.O. Box 49085432|Tampa, FL 15362|

ABC Company|Granite Bldg.|Suite 101|P.O. Box 87|Hartford, CT 06105|



**OFFICIAL LOCAL FORM 2A**

**NOTICE OF INTENDED PRIVATE SALE**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_ )  
In re ) Chapter  
 ) Case No.  
 )  
 , )  
Debtor )  
\_\_\_\_\_ )

**NOTICE OF INTENDED PRIVATE SALE OF ESTATE PROPERTY,  
DEADLINE FOR SUBMITTING OBJECTIONS AND HIGHER OFFERS  
AND HEARING DATE**

To Creditors and Parties in Interest:

Notice is hereby given, pursuant to 11 U.S.C. Section 363, Fed. R. Bankr. P. 2002(a)(2) and 6004, and MLBR 2002-5 and 6004-1, that the Trustee (or, where applicable, the Debtor), \_\_\_\_\_, intends to sell at private sale the Debtor's right, title and interest in certain property of the estate consisting of: \_\_\_(Property Description)\_\_\_.

The Trustee (or where applicable, the Debtor) has received an offer to purchase \_\_\_(Property)\_\_\_ for the sum of \_\_\_(Purchase Price)\_\_\_ in cash (or state other consideration) from \_\_\_(Proposed Buyer)\_\_\_ . The relationship of the proposed buyer to the Debtor (or Trustee, if applicable) is: \_\_\_\_\_.

The sale shall take place on or before \_\_\_\_\_. The proposed buyer has paid a deposit in the sum of \$\_\_\_\_\_. The terms of the proposed sale are more particularly described in a Motion for Order Authorizing and Approving Private Sale of Property of the Estate (the "Motion to Approve Sale") filed with the Court on \_\_\_\_\_ and a written purchase and sale agreement dated \_\_\_\_\_. The Motion to Approve

Sale and the purchase and sale agreement are available upon request from the undersigned.

The \_\_\_(Property)\_\_\_ will be sold free and clear of all liens, claims and encumbrances. Any perfected, enforceable valid liens shall attach to the proceeds of the sale according to priorities established under applicable law.

Any objections to the sale and/or higher offers shall be filed in writing with the Clerk, United States Bankruptcy Court at \_\_\_\_\_ (either Boston or Worcester address as applicable) on or before \_\_\_\_\_ at 4:30 PM (the "Objection Deadline"). A copy of any objection or higher offer also shall be served upon the undersigned. Any objection to the sale must state with particularity the grounds for the objection and why the intended sale should not be authorized. Any objection to the sale shall be governed by Fed. R. Bankr. P. 9014.

Through this Notice, higher offers for the Property are hereby solicited. Any higher must be accompanied by a cash deposit of \$\_\_\_\_\_ in the form of a certified or bank check made payable to the undersigned. Higher offers must be on the same terms and conditions provided in the Purchase and Sale Agreement, other than the purchase price.

A hearing on the Motion to Approve Sale, objections or higher offers is scheduled to take place on \_\_\_\_\_ at \_\_\_\_AM/PM before the Honorable\_\_\_\_\_, United States Bankruptcy Judge, Courtroom \_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Massachusetts. Any party who has filed an objection or higher offer is expected to be present at the hearing, failing which the objection will be overruled or the higher offer stricken. If no objection to the Motion to Approve Sale or higher offer is timely filed, the Bankruptcy Court, in its discretion, may cancel the scheduled hearing and approve the sale without hearing.

At the hearing on the sale the Court may 1) consider any requests to strike a higher offer, 2) determine further terms and conditions of the sale, 3) determine the requirements for further competitive bidding, and 4) require one or more rounds of sealed or open bids from

the original offeror and any other qualifying offeror.

The deposit will be forfeited to the estate if the successful purchaser fails to complete the sale by the date ordered by the Court. If the sale is not completed by the buyer approved by the Court, the Court, without further hearing, may approve the sale of the Property to the next highest bidder.

Any questions concerning the intended sale shall be addressed to the undersigned.

Respectfully Submitted,

TRUSTEE (or Debtor)

By \_\_\_\_\_

Dated: \_\_\_\_\_

**OFFICIAL LOCAL FORM 2B**

**NOTICE OF INTENDED PUBLIC SALE OF ESTATE PROPERTY**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_ )  
In re ) Chapter  
 ) Case No.  
 )  
 , )  
Debtor )  
\_\_\_\_\_ )

**NOTICE OF INTENDED PUBLIC SALE OF ESTATE PROPERTY**

To Creditors and Parties in Interest:

Notice is hereby given, pursuant to 11 U.S.C. § 363, Fed. R. Bankr. P. 2002(a)(2) and 6004, and MLBR Rule 2002-5 and 6004-1, that the Trustee (or, where applicable, the Debtor), \_\_\_\_\_, intends to sell at public sale the Debtor's right, title and interest in certain property of the estate consisting of: \_\_\_\_\_(Property Description)\_\_\_\_\_.

The sale will be conducted by \_\_ (Auctioneer) \_\_ at (Address) \_\_\_\_\_ on \_\_ (Date) \_\_ at \_\_ (Time) \_\_. The proposed sale procedures are more particularly described

in the Debtor's Motion for Order Authorizing and Approving Public Sale of Property of the Estate (the "Motion to Approve Sale").

The \_\_ (Property) \_\_ will be sold free and clear of all liens, claims and encumbrances, with such valid liens, claims and encumbrances, if any, attaching to the net proceeds of the sale to the same extent and in the same order of priority as such liens, claims and encumbrances attached to the \_\_ (Property) \_\_.

Objections, if any, to the Motion to Approve Sale and the intended public sale of the Debtor's interest in the \_\_ (Property) \_\_ must be filed with the Clerk of the United States Bankruptcy Court on or before \_\_\_\_\_ at 4:30 PM (the "Objection Deadline"). A copy of the objection must also be served upon the Trustee (or, where applicable, the Debtor or Debtor's Counsel).

A hearing is scheduled to take place on \_\_\_\_\_ at \_\_\_\_\_ AM/PM before the Honorable \_\_\_\_\_, United States Bankruptcy Judge, Courtroom \_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, Massachusetts. If no objection to the sale is timely filed, the Bankruptcy Court, in its discretion, may cancel the scheduled hearing and grant the Motion.

Respectfully submitted,

\_\_\_\_\_  
(Name, address, telephone number)

Dated:



**OFFICIAL LOCAL FORM 3**

**CHAPTER 13 PLAN AND COVER SHEET**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

**CHAPTER 13 PLAN COVER SHEET**

Filing Date: \_\_\_\_\_ Docket #: \_\_\_\_\_

Debtor: \_\_\_\_\_ Co-Debtor: \_\_\_\_\_

SS#: \_\_\_\_\_ SS#: \_\_\_\_\_

Address: \_\_\_\_\_ Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Debtor's Counsel: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Telephone #: \_\_\_\_\_

Facsimile #: \_\_\_\_\_

ATTACHED TO THIS COVER SHEET IS THE CHAPTER 13 PLAN FILED BY THE DEBTOR(S) IN THIS CASE. THIS PLAN SETS OUT THE PROPOSED TREATMENT OF THE CLAIMS OF CREDITORS. THE CLAIMS ARE SET FORTH IN THE BANKRUPTCY SCHEDULES FILED BY DEBTOR(S) WITH THE BANKRUPTCY COURT.

YOU WILL RECEIVE A SEPARATE NOTICE FROM THE BANKRUPTCY COURT OF THE SCHEDULED CREDITORS' MEETING PURSUANT TO 11 U.S.C. § 341. THAT NOTICE WILL ALSO ESTABLISH THE BAR DATE FOR FILING PROOFS OF CLAIMS.

PURSUANT TO THE MASSACHUSETTS LOCAL BANKRUPTCY RULES, YOU HAVE UNTIL THIRTY (30) DAYS AFTER THE SECTION 341 MEETING TO FILE AN OBJECTION TO CONFIRMATION OF THE CHAPTER 13 PLAN, WHICH OBJECTION MUST BE SERVED ON

THE DEBTOR, DEBTOR'S COUNSEL AND THE CHAPTER 13 TRUSTEE.

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

**CHAPTER 13 PLAN**

Docket # \_\_\_\_\_

DEBTORS: (H) \_\_\_\_\_ SS# \_\_\_\_\_

(W) \_\_\_\_\_ SS# \_\_\_\_\_

TERM OF THE PLAN \_\_\_\_\_ Months

(If the plan is longer than thirty-six (36) months, a statement of cause pursuant to 11 U.S.C. § 1322(d) must be attached hereto.)

PLAN PAYMENT: Debtor(s) to pay monthly: \$ \_\_\_\_\_

**I. SECURED CLAIMS**

**A. CLAIMS TO BE PAID THROUGH THE PLAN (INCLUDING ARREARS):**

Creditor	Description of claim (pre-petition arrears, purchase money, etc.)	Amount of claim
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Total of secured claims to be paid through the Plan \$ \_\_\_\_\_

**B. CLAIMS TO BE PAID DIRECTLY TO CREDITORS (Not through Plan):**

Creditor	Description of Claim
----------	----------------------

_____	_____
_____	_____
_____	_____
_____	_____

**II. PRIORITY CLAIMS**

Creditor	Description of claim	Amount of claim
_____	_____	_____
_____	_____	_____
_____	_____	_____

Total of priority claims to be paid through the plan \$ \_\_\_\_\_

**III. ADMINISTRATIVE CLAIMS**

- A. Attorneys fees (to be paid through the plan): \$ \_\_\_\_\_  
(to be paid in first 12 months of plan)
- B. Miscellaneous fees:

Creditor	Description of claim	Amount of claim
_____	_____	_____
_____	_____	_____

- C. The chapter 13 trustee's fee is determined by order of the United States Attorney General. The calculation of the Plan payment set forth below utilizes a 10% trustee's commission. In the event that the trustee's commission is less than 10%,the additional funds collected by the trustee shall be disbursed to unsecured creditors up to 100% of the allowed claims.

IV. UNSECURED CLAIMS

The general unsecured creditors shall receive a dividend of \_\_\_\_\_% of their claims.

A. General unsecured claims: \$ \_\_\_\_\_

B. Undersecured claims arising after lien avoidance/cramdown:

Creditor	Description of Claim	Amount of Claim
_____	_____	_____
_____	_____	_____

Total of A + B general unsecured claims: \$ \_\_\_\_\_

C. Multiply total by percentage of dividend: \$ \_\_\_\_\_

(Example: Total of \$38,500.00 x .22 dividend = \$8,470.00)

D. Separately classified unsecured claims (co-borrower/student loan, etc.):

Creditor	Description of claim	Amount of claim
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Total amount of separately classified

claims payable at \_\_\_\_\_%: \$ \_\_\_\_\_

V. OTHER PROVISIONS

A. Liquidation of assets to be used to fund plan:

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B. Modification of Secured Claims: Set forth details of modifications below or on attached sheets. This information should include name of creditor and detailed explanation of the modification. The total amount of the secured claim that is to be paid through the plan (inclusive of interest) should be set forth in Section I of this Plan.

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C. Miscellaneous provisions: \_\_\_\_\_

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## VI. CALCULATION OF PLAN PAYMENT

- a. Secured claims (Section I-A Total): \$ \_\_\_\_\_
- b. Priority claims (Section II Total): +\$ \_\_\_\_\_
- c. Administrative claims (Section III A + B Total): +\$ \_\_\_\_\_
- d. General unsecured claims (Section IV-C Total): +\$ \_\_\_\_\_
- e. Separately classified unsecured claims  
(Section IV-D Total): +\$ \_\_\_\_\_
- f. Total of (a) through (e) above: =\$ \_\_\_\_\_
- g. Divide (f) by .90 for total including Trustee's fee:
- Cost of Plan = \$ \_\_\_\_\_

(This represents the total amount to be paid into the chapter 13 plan)

- h. Divide (g) Cost of Plan by Term of plan: \_\_\_\_\_ months
- I. Round up to nearest dollar: Monthly Plan Payment: \$\_\_\_\_\_
- (Enter this amount on page 1)

Pursuant to 11 U.S.C. § 1326(a)(1), unless the Court orders otherwise, a debtor shall commence making the payments proposed by a plan within thirty (30) days after the plan is filed.

LIQUIDATION ANALYSIS

I. Real Estate:

Address	Fair Market Value	Recorded Liens (Schedule D)
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____
_____	\$ _____	\$ _____

Total Net Equity for Real Property: \$ \_\_\_\_\_

Less Exemptions (Schedule C): \$ \_\_\_\_\_

Available Chapter 7: \$ \_\_\_\_\_

II. Automobile (Describe year, make and model):

\_\_\_\_\_ Value \$ \_\_\_\_\_ Lien \$ \_\_\_\_\_ Exemption \$ \_\_\_\_\_

\_\_\_\_\_ Value \$ \_\_\_\_\_ Lien \$ \_\_\_\_\_ Exemption \$ \_\_\_\_\_

Net Value of Equity: \$ \_\_\_\_\_

Less Exemptions (Schedule C): \$ \_\_\_\_\_

Available Chapter 7: \$ \_\_\_\_\_

III. All Other Assets (All remaining items on Schedule B): (Itemize as necessary)

Value: \$ \_\_\_\_\_ Less Exemptions (Schedule C): \$ \_\_\_\_\_  
Available Chapter 7: \$ \_\_\_\_\_

SUMMARY (Total amount available under Chapter 7):

Net Equity (I and II) Plus Other Assets (III) less all claimed exemptions: \$ \_\_\_\_\_

Additional Comments regarding Liquidation Analysis:

\_\_\_\_\_  
\_\_\_\_\_

Pursuant to the Chapter 13 rules, the debtor or his or her \_\_\_\_\_ counsel is required to serve a copy of the Amended Plan upon the Chapter 13 trustee, all creditors and interested parties, and to file a certificate of service accordingly.

\_\_\_\_\_  
Debtor's counsel Date

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Telephone#: \_\_\_\_\_

I/WE DECLARE UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING

REPRESENTATIONS OF FACT ARE TRUE AND CORRECT TO THE BEST OF OUR KNOWLEDGE AND BELIEF.

\_\_\_\_\_  
Debtor

Date

\_\_\_\_\_

\_\_\_\_\_  
Debtor

Date

\_\_\_\_\_

**OFFICIAL LOCAL FORM 4**

**ORDER CONFIRMING CHAPTER 13 PLAN**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_ )  
In re )

) Chapter 13

) Case No.

, )  
Debtor )  
\_\_\_\_\_ )

**ORDER CONFIRMING CHAPTER 13 PLAN**

The debtor(s) filed a First Amended Chapter 13 Plan (the "Plan") on \_\_\_\_\_. The debtor(s) filed a Certificate of Service on \_\_\_\_\_, reflecting that the Plan was served on all creditors and parties in interest. No objections to the confirmation of the Plan were filed, or all objections were overruled by the Court or resolved by the parties. Upon consideration of the foregoing, the Court hereby orders the following:

1. The Plan is confirmed. The term of the Plan \_\_\_\_ months.
2. The debtor(s) shall pay to the chapter 13 trustee the sum of \_\_\_\_\_ per month commencing \_\_\_\_\_ which payments shall continue through completion of the Plan and shall

be made on the first day of each month unless otherwise ordered by the Court. Payments shall be made by Money Order or Bank Treasurer's check (personal checks will not be accepted) and shall be made payable to and forwarded to; Chapter 13 Trustee, P.O. Box 8250, Boston, MA 02114 or, if applicable, Chapter 13 Trustee, P.O. Box 16607, Worcester, MA 01601.

3. The effective date of confirmation of the Plan is \_\_\_\_\_. The disbursements to be made by the chapter 13 trustee pursuant to the confirmed plan are set forth on the attached summary which is incorporated by reference. Interested parties should consult the detailed provisions of the Plan for treatment of their particular claims and other significant provisions of the Plan. Unless otherwise ordered by the court, all property of the estate as defined in 11 U.S.C. §§ 541 and 1306, including, but not limited to, any appreciation in the value of real property owned by the debtor as of the commencement of the case, shall remain property of the estate during the term of the plan and shall vest in the debtor(s) only upon discharge. All property of the estate shall remain within the exclusive jurisdiction of the bankruptcy court. The debtor(s) shall not transfer, sell or otherwise alienate property of the estate other than in accordance with the confirmed plan or other order of the bankruptcy court. The debtor shall be responsible for, preserving and protecting property of the estate.

Dated: \_\_\_\_\_, 200\_

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United States Bankruptcy Judge

## SUMMARY OF DISBURSEMENTS TO BE MADE UNDER THE PLAN

### A. SECURED CLAIMS

#### 1. Modified Secured Claims

The secured claim of (Creditor) is being modified as follows: (describe modified treatment). The secured creditor is retaining its lien on (describe property) to the following extent: \_\_\_\_\_ . The balance of the claim will be treated as an unsecured claim in the sum of \$\_\_\_\_\_ as set forth below.

#### 2. Unmodified Secured Claims

(Creditor) is retaining its lien on (describe property). The debtor(s) shall continue to make regular monthly payments in accordance with the contract with (creditor). (Creditor) will be paid its prepetition arrearage in the sum of \$\_\_\_\_\_ over \_\_\_\_\_ months in the sum of \$\_\_\_\_\_ per month.

#### 3. Administrative Claims

(Creditor) will be paid \$\_\_\_\_\_ over \_\_\_\_\_ months.

#### 4. Priority Claims

a) Tax Claims

b) Other

#### 5. Unsecured Claims

#### 6. Other Pertinent Provisions

**OFFICIAL LOCAL FORM 5**

**ORDER AND NOTICE FIXING DEADLINE FOR  
FILING PROOFS OF CLAIM IN CHAPTER 11 CASES**

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MASSACHUSETTS**

In re	)	
	)	Chapter 11
	)	Case No.
,	)	
Debtor	)	
	)	

**ORDER AND NOTICE FIXING DEADLINE  
FOR FILING PROOFS OF CLAIM IN CHAPTER 11 CASES**

This matter having come before the Court on the Motion for an Order Fixing Deadline for Filing Proofs of Claim (the "Motion"), and good cause having been shown, it is hereby

ORDERED, ADJUDGED and DECREED:

1. Except as provided in paragraphs 2 or 3 below, any individual or entity asserting a claim against the estate of the Debtor must file a proof of claim with the Clerk's Office, United States Bankruptcy Court for the District of Massachusetts, \_\_\_\_\_(address) \_\_\_\_\_, on or before 4:00 p.m. on \_\_\_\_\_, 200\_ (the "Bar Date"). A proof of claim shall not be deemed filed until it is actually received and time stamped by the Clerk of the United States Bankruptcy Court at the above address.

2. No proof of claim shall be required with respect to any claim listed as liquidated, undisputed and not contingent in the Debtor's Schedules of Liabilities filed with this Court on

\_\_\_\_\_, 200\_, provided, however, that no such claim may be allowed in an amount exceeding the amount as listed unless a proof of claim for a higher amount is filed.

3. Any individual or entity asserting a claim of the type described in 11 U.S.C. § 502(g), (h) or (I) shall file a proof of claim with the Clerk's Office, United States Bankruptcy Court for the District of Massachusetts, at the address specified above by the Bar Date or, if later, the 30th day after (a) in the case of the claim of the type described in 11 U.S.C. § 502(g), entry of an Order of this Court approving the rejection of the executory contract or unexpired lease giving rise to such claim; (b) in the case of a claim of a type described in 11 U.S.C. § 502(h), entry of an Order or Judgment avoiding such transfer; or (c) in the case of a claim of the type described in 11 U.S.C. § 502(I), the date such type of claim arises.

4. Any claim against the Debtor for which a proof of claim is required, but is not timely filed under the terms of this Order, shall be forever disallowed and barred as a claim against the Debtor whether for purposes of voting, sharing in any distribution, or in any other way participating as a party in interest in this proceeding.

5. The Debtor shall serve a copy of this Order upon all creditors listed in the Schedules, and all parties who filed or entered their appearance in this case, within ten (10) days after the entry of this Order. Service of this Order shall constitute effective notice of the Bar Date. The Debtor shall promptly file a certificate of service with this Court.

Entered at Boston, Massachusetts, this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

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United States Bankruptcy Judge



**OFFICIAL LOCAL FORM 6**  
**REAFFIRMATION AGREEMENT**

## REAFFIRMATION AGREEMENT

### UNITED STATES BANKRUPTCY COURT DISTRICT OF MASSACHUSETTS

Debtor's Name

Bankruptcy Case No.  
Chapter

Creditor's Name and Address

- Instructions:
- 1) Attach a copy of all court judgments, security agreements and evidence of their perfection.
  - 2) File all the documents by mailing them or delivering them to the Clerk of the Bankruptcy Court.

### NOTICE TO DEBTOR

This agreement gives up the protection of your bankruptcy discharge for this debt.

As a result of this agreement, the creditor may be able to take your property or wages if you do not pay the agreed amounts. The creditor may also act to collect the debt in other ways.

You may rescind (cancel) this agreement at any time before the bankruptcy court enters a discharge order or within 60 days after this agreement is filed with the court, whichever is later, by notifying the creditor that the agreement is canceled.

You are not required to enter into this agreement by any law. It is not required by the Bankruptcy Code, by any other law, or by any contract (except another reaffirmation agreement made in accordance with Bankruptcy Code § 524(c)).

You are allowed to pay this debt without signing this agreement. However, if you do not sign this



Amount of Monthly Payment \$ \_\_\_\_\_

Date Payments Start \_\_\_\_\_

Total Number of Payments to be made \_\_\_\_\_

Total of Payments if paid according to schedule \_\_\_\_\_

Date Any Lien Is to Be Released if paid according to schedule \_\_\_\_\_

The debtor agrees that any and all remedies available to the creditor under the security agreement remain available.

All additional Terms Agreed to by the Parties (if any):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Payments on this debt [were] [were not] in default on the date on which this bankruptcy case was filed. This agreement differs from the original agreement with the creditor as follows:

\_\_\_\_\_  
\_\_\_\_\_

CREDITOR'S STATEMENT CONCERNING AGREEMENT AND SECURITY/COLLATERAL  
(IF ANY)

Description of Collateral. If applicable, list manufacturer, year and model. \_\_\_\_\_  
\_\_\_\_\_

Value \$ \_\_\_\_\_

Basis or Source for Valuation \_\_\_\_\_

Current Location and Use of  
Collateral \_\_\_\_\_

Expected Future Use of Collateral \_\_\_\_\_

Check Applicable Boxes:

- Any lien described herein is valid and perfected.
  
- This agreement is part of a settlement of a dispute regarding the dischargeability of this debt under section 523 of the Bankruptcy Code (11 U.S.C. § 523) or any other dispute. The nature of dispute is \_\_\_\_\_

\_\_\_\_\_

DEBTOR'S STATEMENT OF  
EFFECT OF AGREEMENT ON DEBTOR'S FINANCES

My monthly income (take home pay plus any other income received) is \$\_\_\_\_\_.

My current monthly expenses total \$ \_\_\_\_\_, not including any payment due under this agreement or any debt to be discharged in this bankruptcy case.

I believe this agreement [will] [will not] impose an undue hardship on me or my dependents.

DEBTOR'S STATEMENT CONCERNING DECISION TO REAFFIRM

I agreed to reaffirm this debt because \_\_\_\_\_  
\_\_\_\_\_.

I believe this agreement is in my best interest because \_\_\_\_\_  
\_\_\_\_\_.

I [considered] [did not consider] redeeming the collateral under section 722 of the Bankruptcy Code (11 U.S.C. § 722). I chose not to redeem because \_\_\_\_\_

\_\_\_\_\_.

I [was] [was not] represented by an attorney during negotiations on this agreement.

### CERTIFICATION OF ATTACHMENTS

Any documents which created and perfected the security interest or lien [are] [are not] attached. [If documents are not attached: The documents which created and perfected the security interest or lien are not attached because

\_\_\_\_\_  
\_\_\_\_\_.

### SIGNATURES

\_\_\_\_\_  
(Signature of Debtor)

\_\_\_\_\_  
(Name of Creditor)

Date \_\_\_\_\_

\_\_\_\_\_  
(Signature of Creditor Representative)

\_\_\_\_\_  
(Signature of Joint Debtor)

\_\_\_\_\_  
Date

Date \_\_\_\_\_

### CERTIFICATION BY DEBTOR'S ATTORNEY (IF ANY)

I certify that 1) this agreement represents a fully informed and voluntary agreement by the debtor(s); 2) this agreement does not impose a hardship on the debtor or any dependent of the debtor; and 3) I have

fully advised the debtor of the legal effect and consequences of this agreement and any default under this agreement.

\_\_\_\_\_  
(Signature of Debtor's Attorney, if any)

\_\_\_\_\_  
Date

**OFFICIAL LOCAL FORM 7**

**DECLARATION RE: ELECTRONIC FILING**

**OFFICIAL FORM 7**  
**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_ )  
In re ) Chapter  
 ) Case No.  
 )  
Debtor(s) )  
\_\_\_\_\_ )

**DECLARATION RE: ELECTRONIC FILING**

**PART I- DECLARATION OF PETITIONER**

I [We] \_\_\_\_\_  
and \_\_\_\_\_, *hereby declare(s) under penalty of perjury* that all  
of the information contained in my \_\_\_\_\_ (singly or jointly the  
“Document”), filed electronically, is true and correct. I understand that this *DECLARATION* is to be  
filed with the Clerk of Court electronically concurrently with the electronic filing of the Document. I  
understand that failure to file this *DECLARATION* may cause the Document to be struck and any  
request contained or relying thereon to be denied, without further notice.

I further understand that pursuant to the Massachusetts Electronic Filing Local Rule (MEFLR)-  
7(a) all paper documents containing original signatures executed under the penalties of perjury and filed  
electronically with the Court are the property of the bankruptcy estate and shall be maintained by the  
authorized CM/ECF Registered User for a period of five (5) years after the closing of this case.

Dated:

Signed: \_\_\_\_\_  
(Affiant)

Signed: \_\_\_\_\_  
(Joint Affiant)

PART II - DECLARATION OF ATTORNEY (IF AFFIANT IS REPRESENTED BY COUNSEL)

I certify that the affiant(s) signed this form before I submitted the Document, I gave the affiant(s) a copy of the Document and this *DECLARATION*, and I have followed all other electronic filing requirements currently established by local rule and standing order. This *DECLARATION* is based on all information of which I have knowledge and my signature below constitutes my certification of the foregoing under Fed. R. Bankr. P. 9011. I have reviewed and will comply with the provisions of MEFR 7.

Dated:

Signed: \_\_\_\_\_

Attorney for Affiant



**OFFICIAL LOCAL FORM 8**

**CHAPTER 13 AGREEMENT BETWEEN DEBTOR AND COUNSEL  
RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR ATTORNEYS**

**OFFICIAL FORM 8**

**UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

\_\_\_\_\_  
)  
In re ) Chapter  
) Case No.  
)  
Debtor(s) )  
\_\_\_\_\_)

**CHAPTER 13 AGREEMENT BETWEEN DEBTOR AND COUNSEL  
RIGHTS AND RESPONSIBILITIES OF CHAPTER 13 DEBTORS AND THEIR  
ATTORNEYS**

It is important for debtors who file bankruptcy cases under Chapter 13 to understand their rights and responsibilities. It is also useful for debtors to know what their attorney's responsibilities are, and understand the importance of communicating with their attorney to make the case successful. Debtors should also know that they may expect certain services to be performed by their attorney. To encourage that debtors and their attorneys understand their rights and responsibilities in the bankruptcy process, the following terms are agreed to by the debtors and their attorneys.

**BEFORE THE CASE IS FILED:**

The DEBTOR agrees to:

1. Provide the attorney with accurate financial information; and
2. Discuss with the attorney the debtor's objectives in filing the case.

The ATTORNEY agrees to:

1. Meet with the debtor to review the debtor's debts, assets, income and expenses;

In re: \_\_\_\_\_

Case No. \_\_\_\_\_

2. Counsel the debtor regarding the advisability of filing either a Chapter 7 or Chapter 13 case, discuss both procedures with the debtor, and answer the debtor's questions;
3. Explain what payments will be made through the plan, and what payments will be made directly by the debtor for mortgage and vehicle loan payments, as well as which claims accrue interest;
4. Explain to the debtor how, when, and where to make the Chapter 13 plan payments, as well as the debtor's obligation to continue making mortgage payments, without interruption, and the likely consequences for failure to do so;
5. Explain to the debtor how the attorney's fees and trustee's fees are paid, and provide an executed copy of this document to the debtor;
6. Explain to the debtor that the first plan payment must be made to the Trustee within 30 days of the date the plan is filed;
7. Advise the debtor of the requirement to attend the 341 Meeting of Creditors, and instruct debtor as to the date, time and place of the meeting;
8. Advise the debtor of the necessity of maintaining appropriate insurance on all real estate, motor vehicles and business assets; and
9. Timely prepare and file the debtor's petition, plan and schedules.

**AFTER THE CASE IS FILED:**

The DEBTOR agrees to:

1. Keep the Trustee and attorney informed for the debtor's address and telephone number;
2. Inform the attorney of any wage garnishments or attachments of assets which occur or continue after the filing of the case;
3. Contact the attorney if the debtor loses his/her job or has other financial problems (the attorney may be able to have the Chapter 13 plan payments reduced or suspended in those circumstances), or alternatively obtains a material increase in income or assets;
4. Advise counsel if the debtor is sued during the case;
5. Inform the attorney if tax refunds to which the debtor is entitled are seized or not received;
6. Advise counsel and the Trustee before buying or selling property or before entering into any long-term loan agreements, to determine what approvals are required;
7. Provide the Trustee and the attorney, prior to the Section 341 meeting of creditors, with documentary evidence as to debtor's income from all sources and the value of any asset in which the debtor has an interest, together with a copy of any declaration of homestead

In re: \_\_\_\_\_

Case No. \_\_\_\_\_

covering the debtor's real estate, proof of insurance on any real property or automobiles in which the debtor has an interest, and any other documents which the Trustee might reasonably request in order to assess whether the debtor's proposed plan should be confirmed.

The ATTORNEY agrees to provide the following legal services in consideration of the compensation further described below:

1. Appear at the 341 Meeting of Creditors with the debtor;
2. Respond to objections to plan confirmation, and where necessary, prepare an amended plan;
3. Prepare, file and serve one necessary modification to the plan which may include suspending, lowering, or increasing plan payments;
4. Prepare, file and serve necessary amended schedules in accordance with information provided by the debtor;
5. Prepare, file and serve necessary motions to buy, sell or refinance real property;
6. Object to improper or invalid claims, if necessary, based upon documentation provided by the debtor;
7. Represent the debtor in motions for relief from stay;
8. Where appropriate, prepare, file and serve necessary motions to avoid liens on real or personal property; and
9. Provide such other legal services as necessary for the administration of the case.

The initial fees charged in this case are \$\_\_\_\_\_. Any and all additional terms of compensation and additional services agreed to be rendered, if any, are set forth in writing and annexed hereto. If the initial fees are not sufficient to compensate the attorney for the legal services rendered in this case, the attorney further agrees to apply to the court for additional fees. If the debtor disputes the legal services provided or the fees charged by the attorney, an objection may be filed with the court and the matter set for hearing.

Debtor signature: \_\_\_\_\_ Dated: \_\_\_\_\_

Co-debtor signature: \_\_\_\_\_ Dated: \_\_\_\_\_

Attorney for the debtor (s) signature: \_\_\_\_\_ Dated: \_\_\_\_\_

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